

## California Regulatory Notice Register

REGISTER 2007, NO. 3-Z

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The California Regulatory Notice Register is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the California Regulatory Notice Register shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the California Regulatory Notice Register be retained for a minimum of 18 months.

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### PROPOSED ACTION ON REGULATIONS

Information contained in this document is published as received from agencies and is not edited by Thomson West.

### TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303 and 87304 of the Government Code to review proposed conflict of interest codes, will review the proposed/amended conflict of interest codes of the following:

#### CONFLICT OF INTEREST CODES

#### **AMENDMENT**

### MULTI-COUNTY AGENCY: Coachella Valley Water District

A written comment period has been established commencing on **January 19, 2007**, and closing on **March 5, 2007**. Written comments should be directed to the Fair Political Practices Commission, Attention **Kevin S. Moen, PhD**, 428 J Street, Suite 620, Sacramento, California 95814.

At the end of the 45–day comment period, the proposed conflict of interest code(s) will be submitted to the Commission's Executive Director for his review, unless any interested person or his or her duly authorized requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

The Executive Director or the Commission will review the above–referenced conflict of interest code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director or the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the proposed code(s) to the agency for revision and re—submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Direc-

tor of the Commission, relative to review of the proposed conflict of interest code(s). Any written comments must be received no later than **March 5, 2007**. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

#### COST TO LOCAL AGENCIES

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

#### EFFECT ON HOUSING COSTS AND BUSINESSES

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

#### **AUTHORITY**

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code reviewing body for the above conflict of interest codes shall approve codes as submitted, revise the proposed code and approve it as revised, or return the proposed code for revision and re—submission.

#### **REFERENCE**

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict of interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

#### **CONTACT**

Any inquiries concerning the proposed conflict of interest code(s) should be made to **Kevin S. Moen, PhD**, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322–5660.

### AVAILABILITY OF PROPOSED CONFLICT OF INTEREST CODES

Copies of the proposed conflict of interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to **Kevin S. Moen, PhD**, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322–5660.

### TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303, and 87304 of the Government Code to review proposed conflict of interest codes, will review the proposed/amended conflict of interest codes of the following:

#### CONFLICT OF INTEREST CODES

#### **AMENDMENT**

MULTI-COUNTY: South Coast Air Quality

Management District

Glenn-Colusa Irrigation District

Alameda-Contra Costa

Transit District

North Orange County

Community College District

California Joint Powers

Insurance Authority

Los Rios Community College

District

East Bay Municipal Utility

District

**Dublin San Ramon Services** 

District

A written comment period has been established commencing on **January 19, 2007**, and closing on **March 5, 2007**. Written comments should be directed to the Fair Political Practices Commission, Attention **Ashley Clarke**, 428 J Street, Suite 620, Sacramento, California 95814.

At the end of the 45-day comment period, the proposed conflict of interest code(s) will be submitted to the Commission's Executive Director for his review, unless any interested person or his or her duly authorized requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

The Executive Director or the Commission will review the above–referenced conflict of interest code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section

87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director or the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the proposed code(s) to the agency for revision and re—submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict of interest code(s). Any written comments must be received no later than **March 5**, **2007**. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

#### COST TO LOCAL AGENCIES

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

#### EFFECT ON HOUSING COSTS AND BUSINESSES

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

#### **AUTHORITY**

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code reviewing body for the above conflict of interest codes shall approve codes as submitted, revise the proposed code and approve it as revised, or return the proposed code for revision and re–submission.

#### **REFERENCE**

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict of interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

#### CONTACT

Any inquiries concerning the proposed conflict of interest code(s) should be made to **Ashley Clarke**, Fair

Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322–5660.

### AVAILABILITY OF PROPOSED CONFLICT OF INTEREST CODES

Copies of the proposed conflict of interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to **Ashley Clarke**, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322–5660.

### TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303 and 87304 of the Government Code to review proposed conflict of interest codes, will review the proposed/amended conflict of interest codes of the following:

#### CONFLICT OF INTEREST CODES

#### **ADOPTION**

### MULTI-COUNTY AGENCY: Sutter-Yuba Mental Health Services

A written comment period has been established commencing on **January 19, 2007**, and closing on **March 5, 2007**. Written comments should be directed to the Fair Political Practices Commission, Attention **Kevin S. Moen, PhD**, 428 J Street, Suite 620, Sacramento, California 95814.

At the end of the 45–day comment period, the proposed conflict of interest code(s) will be submitted to the Commission's Executive Director for his review, unless any interested person or his or her duly authorized requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

The Executive Director or the Commission will review the above–referenced conflict–of–interest code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director or the Commission, upon his or its own motion or at the request of any interested per-

son, will approve, or revise and approve, or return the proposed code(s) to the agency for revision and re–submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict of interest code(s). Any written comments must be received no later than **March 5, 2007**. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

#### COST TO LOCAL AGENCIES

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

#### EFFECT ON HOUSING COSTS AND BUSINESSES

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

#### **AUTHORITY**

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code reviewing body for the above conflict of interest codes shall approve codes as submitted, revise the proposed code and approve it as revised, or return the proposed code for revision and re–submission.

#### **REFERENCE**

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict of interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

#### **CONTACT**

Any inquiries concerning the proposed conflict of interest code(s) should be made to **Kevin S. Moen, PhD**, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322–5660.

### AVAILABILITY OF PROPOSED CONFLICT OF INTEREST CODES

Copies of the proposed conflict of interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to **Kevin S. Moen, PhD**, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322–5660.

### TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by sections 82011, 87303, and 87304 of the Government Code to review proposed conflict of interest codes, will review the amended conflict of interest codes of the following agencies:

#### CONFLICT OF INTEREST CODE

#### **AMENDMENT**

STATE AGENCIES: University of California and California Department of Transportation

A written comment period has been established commencing on **January 19, 2007**, and closing on **March 5, 2007**. Written comments should be directed to Adrianne Korchmaros, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814.

At the end of the 45-day comment period, the proposed amendment to the conflict of interest code will be submitted to the Commission's Executive Director for review, unless any interested person, or his or her duly authorized representative, requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed amendment will be submitted to the Commission for review.

The Executive Director of the Commission will review the above–referenced amendment to the conflict of interest code, proposed pursuant to Government Code section 87300, which designates, pursuant to Government Code section 87302, employees who must disclose certain investments, interests in real property, and income.

The Executive Director or the Commission, upon his or her own motion or at the interest of any interested person, will approve, or revise and approve, or return the amendment to the agency for revision and re–sub-mission within 60 days without further notice.

Any interested person may present statements, arguments, or comments, in writing to the Executive Director of the Commission, relative to review of the proposed amendment to the conflict of interest code. Any written comments must be received no later than March 5, 2007. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

#### COST TO LOCAL AGENCIES

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code section 17514.

#### EFFECT ON HOUSING COSTS AND BUSINESSES

Compliance with the codes has no potential effect on housing costs or on private persons, businesses, or small businesses.

#### **AUTHORITY**

Government Code sections 82011, 87303, and 87304 provide that the Fair Political Practices Commission as the code reviewing body for the above conflict of interest code shall approve codes as submitted, revise the proposed code, and approve it as revised, or return the proposed code for revision and re–submission.

#### REFERENCE

Government Code sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict of interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

#### **CONTACT**

Any inquiries concerning the proposed conflict of interest code(s) should be made to Adrianne Korchmaros, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322–5660.

# TITLE 2. SONOMA COUNTY DISTRICT 3 LOCAL WINEGRAPE COMMISSION

Notice is hereby given that the Sonoma County District 3 Local Winegrape Commission intends to adopt a conflict of interest code pursuant to Government Code Sections 87300 and 87306. Pursuant to Government Code Sections 87300–87302, the Code will designate employees who must disclose certain investments, income, interest in real property and business positions, and who must disqualify themselves from making or participating in the making of governmental decisions affecting those interests.

A written comment period has been established commencing January 19, 2007 and terminating on March 20, 2007. Any interested person may present written comments concerning the proposed code no later than March 20, 2007, to the Sonoma County District 3 Local Winegrape Commission, c/o Jill S. England, P.O. Box 191167, Sacramento, California 95819. No public hearing on this matter will be held unless any interested person or his or her representative requests, no later than fifteen (15) days prior to the close of the written comment period, a public hearing.

The Sonoma County District 3 Local Winegrape Commission has prepared a written explanation of the reasons for the designations and the disclosure responsibilities and has available all the information upon which its proposal is based.

The adoption of the proposed Code will not impose a cost or savings on any state agency, local agency or school district that is required to be reimbursed under Part 7 (commencing with section 17500) of Division 4 of the Government Code; will not result in any non-discretionary cost or savings to local agencies; will not result in any cost or savings in federal funding to the state; will not impose a mandate on local agencies or school districts; and will not have any potential cost impact on private persons or businesses including small businesses.

The Sonoma County District 3 Local Winegrape Commission must determine that no alternative considered by the Agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons and the proposed action.

Copies of the proposed Code and all the information upon which it is based, may be obtained from the Sonoma County District 3 Local Winegrape Commission by contacting Jill S. England, General Counsel, at (916) 452–2602 or jillengland@sbcglobal.net

#### TITLE 2. STATE ALLOCATION BOARD

#### NOTICE OF PROPOSED REGULATORY ACTION

THE STATE ALLOCATION BOARD PROPOSES TO AMEND THE FOLLOWING REGULATION SECTIONS, ALONG WITH ASSOCIATED FORMS, TITLE 2, CALIFORNIA CODE OF REGULATIONS, RELATING TO LEROY F. GREENE SCHOOL FACILITIES ACT OF 1998

PROPOSED AMENDMENTS TO REGULATION SECTIONS: 1859.51, 1859.61 and 1859.81

### PROPOSED AMENDMENTS TO THE FOLLOWING FORMS:

Eligibility Determination, Form SAB 50–03 (Revised 09/06), Referenced in Regulation Section 1859.2 Application for Funding, Form SAB 50–04 (Revised 09/06), Referenced in Regulation Section 1859.2

Fund Release Authorization, Form SAB 50–05 (Revised 09/06), Referenced in Regulation Section 1859.2

NOTICE IS HEREBY GIVEN that the State Allocation Board (SAB) proposes to amend the above–referenced regulation sections, along with associated forms, contained in Title 2, California Code of Regulations (CCR). A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Office of Public School Construction (OPSC) no later than 15 days prior to the close of the written comment period. Following the public hearing, if one is requested, or following the written comment period if no public hearing is requested, the OPSC, at its own motion or at the instance of any interested person, may adopt the proposals substantially as set forth above without further notice.

#### **AUTHORITY AND REFERENCE CITATIONS**

The SAB is proposing to amend existing Regulation Sections 1859.51, 1859.61, and 1859.81 under the authority provided by Sections 17070.35, 17075.15 and 17592.73 of the Education Code. The proposals interpret and make specific reference to Sections 17052, 17070.51, 17071.25, 17071.75, 17071.76, 17072.15, 17072.20, 17073.15, 17074.10, 17074.32, 17075.10, 17075.15 and 17077.40 of the Education Code.

### INFORMATIVE DIGEST/POLICY OVERVIEW STATEMENT

The Leroy F. Greene School Facilities Act of 1998 established, through Senate Bill 50, Chapter 407, Statutes of 1998, the School Facility Program (SFP). The SFP provides a per–pupil grant amount to qualifying school districts for purposes of constructing school facilities and modernizing existing school facilities. The SAB adopted regulations to implement the Leroy F. Greene School Facilities Act of 1998, which were approved by the Office of Administrative Law and filed with the Secretary of State on October 8, 1999.

The proposed amendments to SFP regulation sections and forms are as follows:

Existing Regulation Section 1859.51 specifies how a district's ongoing eligibility for new construction funding is calculated, including required adjustments for additional classrooms provided after the new construction baseline eligibility is established. Subsection 1859.51(i) requires districts to reduce their baseline eligibility due to classrooms provided after the baseline eligibility has been established, with the exception of pupils housed or to be housed in certain facilities which are not deemed to be long—term housing solutions.

The proposed amendments to Regulation Section 1859.51(i) remove the reference to EC Section 17071.30 and clarify that the following classrooms do not have to be reported as additional classrooms provided after the new construction eligibility has been established:

- State Relocatable Classroom Program portable classrooms;
- Portable classrooms leased less than five years;
- Portable classrooms leased more than five years when needed as interim housing on a single project (not to exceed an additional three years),
- Facilities that were built or acquired for certain non-classroom purposes with funds specifically available for those purposes,
- Portables counted in a district's existing building capacity that are subsequently replaced entirely with local funds and that are taken out of classroom use (see below).

Existing Regulation Section 1859.61 sets forth specific factors which impact a district's capacity to house pupils and therefore require adjustments to the modernization baseline eligibility. The proposed amendment adds another specific factor requiring a decrease of the modernization baseline eligibility for facilities that were eligible for modernization and subsequently replaced, or will be replaced under a signed contract for construction or acquisition of facilities, in a locally funded district project without State funding.

Existing Regulation Section 1859.81 sets forth eligibility criteria for SFP financial hardship status in order for the State to fund all or a portion of a school district's required share of project costs. The proposed amendments clarify that the eligibility requirements are in existing subsections (a) and (c), as well as newly–proposed eligibility requirement (d) that the district has not in the past five years used local funding to replace existing facilities which were included in the determination of its new construction eligibility pursuant to Education Code Section 17071.75. New requirement (d) may be waived if the Board finds unforeseen and extenuating circumstances existed that required the district to use local funds to replace the facilities.

Existing Form SAB 50–03, *Eligibility Determination Application*, is used by school districts to calculate the district's eligibility for new construction and modernization funding under the SFP. The proposed amendments change "General Information," Part III, by adding guidance for requesting an adjustment to the approved modernization baseline eligibility for replacement of facilities that were eligible for modernization and subsequently replaced in a locally funded district project without State funding, and delete a sentence which duplicates information stated in existing Regulation Section 1859.78.8.

Existing Form SAB 50–04, Application for Funding, is submitted by school districts seeking State funding for new construction or modernization projects. The proposed amendments add "specific instructions" and corresponding data fields for districts to clarify whether the site for the project is leased, new, or an existing site with or without additional acreage being acquired, and to distinguish whether classrooms are "additional" or "replacement" which are reported to adjust the new construction baseline eligibility.

Existing Form SAB 50–05, Fund Release Authorization, is used by school districts to request the release of State funds that have been apportioned by the SAB, upon the district's certification of compliance with specific legal and SFP requirements. The proposed amendments add "general instructions" and corresponding data fields to enter the date of written project approval by the Division of the State Architect.

### IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Executive Officer of the SAB has determined that the proposed regulations do not impose a mandate or a mandate requiring reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. It will not require local agencies or school districts to incur additional costs in order to comply with the proposed regulations.

#### ECONOMIC IMPACT

The Executive Officer of the SAB has assessed the potential for significant adverse economic impact on businesses or private persons that might result from the proposed regulatory action and the following determinations have been made relative to the required statutory categories:

- The SAB has made an initial determination that there will be no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- There will be no impact in the creation or elimination of jobs within the State, the creation of new businesses or the elimination of existing businesses or the expansion of businesses in California.
- The SAB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- There will be no non-discretionary costs or savings to local agencies.
- There will be no costs to school districts except for the required district contribution toward each project as stipulated in statute.
- There will be no costs or savings in federal funding to the State.
- There are no costs or savings to any State agency.
- The SAB has made an initial determination that there will be no impact on housing costs.

#### EFFECT ON SMALL BUSINESSES

It has been determined that the adoption of the regulation sections will not affect small businesses in the ways identified in subsections (a)(1)–(4) of Section 4, Title 1, CCR. These regulations only apply to school districts and charter schools for purposes of funding school facility projects.

### SUBMISSION OF COMMENTS, DOCUMENTS AND ADDITIONAL INFORMATION

Any interested person may present statements, arguments or contentions, in writing, submitted via U.S. mail, e-mail or fax, relevant to the proposed regulatory action. Written comments submitted via U.S. mail, e-mail or fax must be received at the OPSC no later than March 5, 2007, at 5:00 p.m. The express terms of the proposed regulations as well as the Initial Statement of Reasons are available to the public.

Written comments, submitted via U.S. mail, e-mail or fax, regarding the proposed regulatory action, requests for a copy of the proposed regulatory action or the Initial Statement of Reasons, and questions concerning the substance of the proposed regulatory action should be addressed to:

Robert Young, Regulation

Coordinator

Mailing Address: Office of Public School

Construction

1130 K Street, Suite 400 Sacramento, CA 95814

E-mail Address: <a href="mailto:robert.young@dgs.ca.gov">robert.young@dgs.ca.gov</a>

Fax No.: (916) 445–5526

#### AGENCY CONTACT PERSONS

General or substantive questions regarding this Notice of Proposed Regulatory Action may be directed to Robert Young at (916) 445–0083. If Mr. Young is unavailable, these questions may be directed to the backup contact person, Lisa Jones, Supervisor, Regulations Team, at (916) 322–1043.

#### ADOPTION OF REGULATIONS

Please note that, following the public comment period, the SAB may adopt the regulations substantially as proposed in this notice or with modifications, which are sufficiently related to the originally proposed text and notice of proposed regulatory activity. If modifications are made, the modified text with the changes clearly indicated will be made available to the public for at least 15 days prior to the date on which the SAB adopts the regulations.

The modified regulation(s) will be made available and provided to: all persons who testified at and who submitted written comments at the public hearing, all persons who submitted written comments during the public comment period, and all persons who requested notification from the agency of the availability of such changes. Requests for copies of any modified regulation should be addressed to the agency's regulation coordinator identified above. The SAB will accept written comments on the modified regulations during the 15–day period.

### SUBSTANTIAL CHANGES WILL REQUIRE A NEW NOTICE

If, after receiving comments, the SAB intends to adopt the regulations with modifications not sufficiently related to the original text, the modified text will not be adopted without complying anew with the notice requirements of the Administrative Procedure Act.

#### **RULEMAKING FILE**

Pursuant to Government Code Section 11347.3, the SAB is maintaining a rulemaking file for the proposed regulatory action. The file currently contains:

- 1. A copy of the text of the regulations for which the adoption is proposed in strikeout/underline.
- 2. A copy of this notice.
- 3. A copy of the Initial Statement of Reasons for the proposed adoption.
- 4. The factual information upon which the SAB is relying in proposing the adoption.

As data and other factual information, studies, reports or written comments are received, they will be added to the rulemaking file. The file is available for public inspection at the OPSC during normal working hours. Items 1 through 3 are also available on the OPSC Internet Web site at: <a href="http://www.opsc.dgs.ca.gov">http://www.opsc.dgs.ca.gov</a> under "Regulations," then click on "Proposed Regulations."

#### **ALTERNATIVES**

In accordance with Government Code Section 11346.5(a)(13), the SAB must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the SAB would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

### AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the agency's regulation coordinator named in this notice or may be accessed on the Web site listed above.

#### TITLE 2. STATE ALLOCATION BOARD

NOTICE OF PROPOSED REGULATORY ACTION

THE STATE ALLOCATION BOARD PROPOSES TO AMEND REGULATION SECTION 1859.83, ALONG WITH AN ASSOCIATED FORM, TITLE 2, CALIFORNIA CODE OF REGULATIONS, RELATING TO LEROY F. GREENE SCHOOL FACILITIES ACT OF 1998

NOTICE IS HEREBY GIVEN that the State Allocation Board (SAB) proposes to amend Regulation Sec-

tion 1859.83, along with an associated form, contained in Title 2, California Code of Regulations (CCR). A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Office of Public School Construction (OPSC) no later than 15 days prior to the close of the written comment period. Following the public hearing, if one is requested, or following the written comment period if no public hearing is requested, the OPSC, at its own motion or at the instance of any interested person, may adopt the proposals substantially as set forth above without further notice.

#### **AUTHORITY AND REFERENCE CITATIONS**

The SAB is proposing to amend the above regulation section under the authority provided by Sections 17070.35 and 17075.15 of the Education Code. The proposals interpret and make specific reference to Sections 17072.32, 17074.15, 17074.16, 17075.10, 17075.15, 17077.40, 17077.42 and 17077.45 of the Education Code.

### INFORMATIVE DIGEST/POLICY OVERVIEW STATEMENT

The Leroy F. Greene School Facilities Act of 1998 established, through Senate Bill 50, Chapter 407, Statutes of 1998, the School Facility Program (SFP). The SFP provides a per–pupil grant amount to qualifying school districts for purposes of constructing school facilities and modernizing existing school facilities. The SAB adopted regulations to implement the Leroy F. Greene School Facilities Act of 1998, which were approved by the Office of Administrative Law and filed with the Secretary of State on October 8, 1999.

The State Allocation Board at its August 23, 2006 meeting adopted proposed emergency regulatory amendments that would allow an alternative computation for the excessive cost hardship grant which helps school districts to afford the costs for required accessibility and fire code compliance in modernization projects. These costly compliance standards are mandated by State and Federal law, and protect the lives and safety of persons with disabilities.

School districts are reporting difficulty affording the required access compliance work in modernization projects, which was confirmed in a recent report by the Division of the State Architect (DSA). The DSA found an overall average of 26 percent of modernization construction costs were attributed to accessibility requirements, and that the existing SFP excessive cost hardship grant (a three percent increase to the modernization grant) was usually insufficient to fund the mini-

mum work necessary for districts to meet accessibility requirements.

Accessibility compliance in public school projects is required in Government Code Sections 4450 et seq., the Americans with Disabilities Act of 1990 (ADA), and the Accessibility Guidelines adopted by the United States Department of Justice at 28 CFR Part 36. All school buildings, structures, sidewalks, curbs, and related facilities constructed with State funds must be accessible to and usable by persons with disabilities, and no contract may be awarded until the Department of General Services has issued written approval for accessibility compliance in the plans and specifications.

The proposed alternate computation would be the difference of the actual costs required for access compliance and verified by the DSA and the OPSC minus seven percent of the sum of the State and district share of the project's modernization base grant (the seven percent of the modernization base grant is subtracted because that percentage of the modernization base grant is already deemed available for modernization accessibility requirements), but not to exceed a cap based on reasonable Title 24 building code compliance.

The amendments are summarized as follows:

Existing Regulation Section 1859.83 sets forth school district eligibility criteria for excessive cost hardship grant funding as a result of specified unusual circumstances. The proposed amendment provides an alternative computation for the existing excessive cost hardship grant for purposes of helping applicant school districts meet costs for accessibility and fire code requirements in modernization projects.

Existing Form SAB 50–04, *Application for Funding*, is submitted by school districts to apply for State funding for new construction or modernization projects. The proposed amendments add data fields for applicant school districts to choose between the existing or proposed alternative computation for the excessive cost hardship grant for accessibility and fire code compliance in modernization projects. Instructions are added for the district to make this choice and to submit the DSA approved list of the minimum required accessibility work and a detailed cost estimate for the work in the plans. The term "handicapped access" is deleted and replaced by the word "accessibility" to conform with the terminology in State and Federal law.

### IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Executive Officer of the SAB has determined that the proposed regulations do not impose a mandate or a mandate requiring reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. It will not require lo-

cal agencies or school districts to incur additional costs in order to comply with the proposed regulations.

#### ECONOMIC IMPACT

The Executive Officer of the SAB has assessed the potential for significant adverse economic impact on businesses or private persons that might result from the proposed regulatory action and the following determinations have been made relative to the required statutory categories:

- The SAB has made an initial determination that there will be no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- There will be no impact in the creation or elimination of jobs within the State, the creation of new businesses or the elimination of existing businesses or the expansion of businesses in California.
- The SAB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- There will be no non-discretionary costs or savings to local agencies.
- There will be no costs to school districts except for the required district contribution toward each project as stipulated in statute.
- There will be no costs or savings in federal funding to the State.
- There are no costs or savings to any State agency.
- The SAB has made an initial determination that there will be no impact on housing costs.

#### EFFECT ON SMALL BUSINESSES

It has been determined that the adoption of the regulation sections will not affect small businesses in the ways identified in subsections (a)(1)–(4) of Section 4, Title 1, CCR. These regulations only apply to school districts for purposes of funding school facility projects under the SFP.

#### SUBMISSION OF COMMENTS, DOCUMENTS AND ADDITIONAL INFORMATION

Any interested person may present statements, arguments or contentions, in writing, submitted via U.S. mail, e-mail or fax, relevant to the proposed regulatory action. Written comments submitted via U.S. mail, e-mail or fax must be received at the OPSC no later than

March 5, 2007, at 5:00 p.m. The express terms of the proposed regulations as well as the Initial Statement of Reasons are available to the public.

Written comments, submitted via U.S. mail, e-mail or fax, regarding the proposed regulatory action, requests for a copy of the proposed regulatory action or the Initial Statement of Reasons, and questions concerning the substance of the proposed regulatory action should be addressed to:

Robert Young, Regulation

Coordinator

Mailing Address: Office of Public School

Construction

1130 K Street, Suite 400 Sacramento, CA 95814

E-mail Address: <u>robert.young@dgs.ca.gov</u>

Fax No.: (916) 445–5526

#### AGENCY CONTACT PERSONS

General or substantive questions regarding this Notice of Proposed Regulatory Action may be directed to Robert Young at (916) 445–0083. If Mr. Young is unavailable, these questions may be directed to the backup contact person, Lisa Jones, Supervisor, Regulations Team, at (916) 322–1043.

#### ADOPTION OF REGULATIONS

Please note that, following the public comment period, the SAB may adopt the regulations substantially as proposed in this notice or with modifications, which are sufficiently related to the originally proposed text and notice of proposed regulatory activity. If modifications are made, the modified text with the changes clearly indicated will be made available to the public for at least 15 days prior to the date on which the SAB adopts the regulations.

The modified regulation(s) will be made available and provided to: all persons who testified at and who submitted written comments at the public hearing, all persons who submitted written comments during the public comment period, and all persons who requested notification from the agency of the availability of such changes. Requests for copies of any modified regulation should be addressed to the agency's regulation coordinator identified above. The SAB will accept written comments on the modified regulations during the 15–day period.

### SUBSTANTIAL CHANGES WILL REQUIRE A NEW NOTICE

If, after receiving comments, the SAB intends to adopt the regulations with modifications not sufficient-

ly related to the original text, the modified text will not be adopted without complying anew with the notice requirements of the Administrative Procedure Act.

#### RULEMAKING FILE,

Pursuant to Government Code Section 11347.3, the SAB is maintaining a rulemaking file for the proposed regulatory action. The file currently contains:

- 1. A copy of the text of the regulations for which the adoption is proposed in strikeout/underline.
- 2. A copy of this notice.
- 3. A copy of the Initial Statement of Reasons for the proposed adoption.
- 4. The factual information upon which the SAB is relying in proposing the adoption.

As data and other factual information, studies, reports or written comments are received, they will be added to the rulemaking file. The file is available for public inspection at the OPSC during normal working hours. Items 1 through 3 are also available on the OPSC Internet Web site at: <a href="http://www.opsc.dgs.ca.gov">http://www.opsc.dgs.ca.gov</a> under "Regulations," then click on "Proposed Regulations."

#### **ALTERNATIVES**

In accordance with Government Code Section 11346.5(a)(13), the SAB must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the SAB would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

### AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the agency's regulation coordinator named in this notice or may be accessed on the Web site listed above.

### TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture (Department) is proposing to take the action described in the Informative Digest. A public hearing is not scheduled for this proposal. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written com-

<u>ment period</u>. Any person interested may present statements or arguments in writing relevant to the action proposed to the person designated in this Notice as the contact person by <u>5:00 p.m. on March 5, 2007.</u>

Following the public hearing, if one is requested, or following the written comment period if no public hearing is requested, the Department, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by sections 407 and 10610 of the Food and Agricultural Code, and to implement, interpret or make specific sections 9166, 9167, 9562 and 10610 of said Code, the Department proposes changes to Article 12 of Chapter 2, Division 2, of Title 3 of the California Code of Regulations, as follows:

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

### BOVINE TRICHOMONOSIS CONTROL PROGRAM

Food and Agricultural Code Section 10610 authorizes the Department to adopt regulations to control and eradicate cattle diseases, including bovine trichomonosis, through limitations on movement, diagnostic testing, vaccinations, or other appropriate methods of treatment and control. Section 9562 authorizes the State Veterinarian to quarantine or restrict the movement of animals or animal products to minimize the risk of an illness that could kill or seriously damage other animals or humans.

In compliance with sections 9562 and 10610 the Department has in place existing Bovine Trichomonosis Control Program regulations under Article 12 of Chapter 2, Division 2, of Title 3 of the California Code of Regulations.

This proposal amends sections 820, adopts section 820.2, renumbers and amends former section 820.2 to read 820.3, renumbers and amends former section 820.3 to read 820.4, renumbers and amends former section 820.4 to read 820.5, renumbers former section 820.5 to read 820.6, repeals former section 820.6, adopts section 820.7, and renumbers former section

820.7 to read 820.8 of Article 12 (Bovine Trichomonosis Control Program). This proposal updates the interstate movement requirements for bulls entering California and strengthens existing testing protocol for infected cattle and affected and exposed herds. The amendments were promulgated by the Department's Cattle Health Advisory Task Force pursuant to section 10610 of the Food and Agricultural Code, at their meetings held January 18, June 14, and November 8, 2006.

#### FISCAL IMPACT ESTIMATES

<u>Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal</u> Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

<u>Business Impact:</u> The Department has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states. The following compliance requirements are projected to result from the proposed action:

- 1) Paperwork: This proposal contains paperwork requirements consisting of laboratory testing for trichomonosis in cattle. The potential costs would be for the testing or retesting for trichomonosis in bulls entering the state, and for the testing and retesting of herdmate bulls in herds in California containing infected cattle, affected and exposed herds, or herds moving into California via a Pasture to Pasture permit. The testing requirements are intended to control and possibly prevent a disease of cattle that will benefit California's cattle industry, promote healthy animals, and make the industry's products marketable both nationally and internationally.
- 2) Record Keeping: This proposal does not contain a record keeping requirement.
- 3) Reporting: This proposal contains a reporting requirement, which requires notification to the Department within 2 days of discovering trichomonosis. This requirement applies to any licensed veterinarian, any person operating a diagnostic laboratory, or any person who has been informed, recognizes or should recognize, by virtue of education, experience, or occupation per Food and Agricultural Code section 9101. Additionally this proposal is requiring any

positive test result for trichomonosis to be reported to the Department with 2 days of reading the test. This requirement is necessary to prevent any positive animals from moving and spreading disease.

Impact on Jobs/New Businesses: The Department has determined that this regulatory proposal will not have any impact on the creation of jobs or businesses or the elimination of jobs or existing businesses or the expansion of businesses in California.

<u>Cost Impacts on Private Persons or Entities:</u> The cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action and that are known to the Department are:

- 1) Paperwork: This proposal contains paperwork requirements consisting of laboratory testing for trichomonosis in cattle. The potential costs would be for the testing or retesting for trichomonosis in bulls entering the state, and for the testing and retesting of herdmate bulls in herds in California containing infected cattle, affected and exposed herds, or herds moving into California via a Pasture to Pasture permit.
- 2) Record Keeping: This proposal does not contain a record keeping requirement.
- 3) Reporting: This proposal contains a reporting requirement, which requires notification to the Department within 2 days of discovering trichomonosis. This requirement applies to any licensed veterinarian, any person operating a diagnostic laboratory, or any person who has been informed, recognizes or should recognize, by virtue of education, experience, or occupation per Food and Agricultural Code section 9101. Additionally this proposal is requiring any positive test result for trichomonosis to be reported to the Department with 2 days of reading the test. This requirement is necessary to prevent any positive animals from moving and spreading disease.

#### Effect on Housing Costs: None

<u>Finding of Necessity for Report:</u> The Department finds that it is necessary for the health, safety, and general welfare of the people of California that this regulation requiring a report applies to businesses.

#### EFFECT ON SMALL BUSINESS

The Department has determined that the proposed regulations would affect small businesses.

#### **CONSIDERATION OF ALTERNATIVES**

The Department of Food and Agriculture must determine that no reasonable alternative which it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above—mentioned hearing (if a hearing is requested from the public), or during the public comment period.

#### INITIAL STATEMENT OF REASONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed action and has available all the information upon which the proposal is based.

#### TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing (if a hearing is requested) or during the public comment period upon request from the Department of Food and Agriculture, 1220 N Street, Room A–114, Sacramento, CA 95814.

#### AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public inspection by contacting the persons named below.

Any person may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact persons named below or by accessing the website listed below.

#### **CONTACT PERSONS**

Inquires concerning the substance of the proposed regulations is to be addressed to the following:

Name: Anita J. Edmondson, BVM&S,

MPVM, MRCVS

Address: Department of Food and

Agriculture

Animal Health and Food Safety

Services

1220 N Street, Room A–114 Sacramento, CA 95814

Telephone No.: (916) 651–9135 Fax No.: (916) 653–4249

E-mail address: aedmondson@cdfa.ca.gov

The backup contact person is:

Name: Thami Rodgers, Associate Analyst

Address: Department of Food and

Agriculture

Animal Health and Food Safety

Services

1220 N Street, Room A–114 Sacramento, CA 95814

Telephone No.: (916) 698–3276 Fax No.: (916) 653–4249 E-mail address: trodgers@cdfa.ca.gov

Written comments, facsimiles or e-mails regarding this proposal are to be addressed to the following:

Name: Thami Rodgers, Associate Analyst

Address: Department of Food and

Agriculture

Animal Health and Food Safety

Services

1220 N Street, Room A-114

Sacramento, CA 95814

Telephone No.: (916) 698–3276 Fax No.: (916) 653–4249 E–mail address: <u>trodgers@cdfa.ca.gov</u>

Website Access: Materials regarding this proposal

can be found at www.cdfa.ca.gov

### TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended Section 3433, subsection (b) of the regulations in Title 3 of the California Code of Regulations pertaining to Diaprepes Root Weevil Interior Quarantine as an emergency action that was effective on November 16, 2006. The Department proposes to continue the regulation as amended and to complete the adoption process by submission of a Certificate of Compliance no later than March 16, 2007.

A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period. Following the public hearing if one is requested, or following the written comment period if no public hearing is requested, the Department of Food and Agriculture, at its own motion, or at the instance of any interested person, may adopt the proposal substantially as set forth without further notice.

Notice is also given that any person interested may present statements or arguments in writing relevant to the actions proposed to the agency officer named below on or before March 5, 2007.

Following the public hearing and the written comment period, the Department of Food and Agriculture may certify that there was compliance with provisions of Section 11346.1 of the Government Code within 120 days of the emergency regulation.

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law obligates the Department of Food and Agriculture to protect the agricultural industry of California and prevent the spread of injurious pests (Food and Agricultural Code Sections 401 and 403). Existing law provides the Secretary may establish, maintain, and enforce quarantine regulations, as he deems necessary, to circumscribe and exterminate or prevent the spread of pests (Food and Agricultural Code, Sections 5301, 5302 and 5322).

This amendment of Section 3433 established two new quarantine areas; one in Orange County (Huntington Beach area) and one in San Diego County (Oceanside area). This added approximately four square miles to Orange County and one square mile to San Diego County as additional areas under quarantine for *Diaprepes abbreviatus*. The effect of the amendment is to provide authority for the State to regulate movement of the articles and commodities covered that may move life stages of the Diaprepes root weevil from, into, and within that area under quarantine to prevent artificial spread of the weevil to noninfested areas to protect California's agricultural industry. There is no existing, comparable federal regulation or statute.

### COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The Department of Food and Agriculture has determined that Section 3433 does not impose a mandate on local agencies or school districts, except that an agricultural commissioner of a county under quarantine has a duty to enforce Section 3433. No reimbursement is required for Section 3433 under Section 17561 of the Government Code because the agricultural commis-

sioners of Orange and San Diego counties requested the changes in the regulation.

The Department also has determined that the amended regulation will involve no additional costs or savings to any state agency, no reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts, no nondiscretionary costs or savings to local agencies or school districts, and no costs or savings in federal funding to the State.

#### EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed action will not affect housing costs.

#### **EFFECT ON BUSINESSES**

The Department has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting some California businesses, including the ability of California businesses to compete with businesses in other states.

### COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The cost impact of the amended regulation on a representative private person or business is not expected to be significantly adverse. The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

#### **ASSESSMENT**

The Department has made an assessment that the proposed amendment to the regulation would <u>not</u> (1) create or eliminate jobs within California, (2) create new business or eliminate existing businesses within California, or (3) affect the expansion of businesses currently doing business within California.

#### ALTERNATIVES CONSIDERED

The Department of Food and Agriculture must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less

burdensome to affected private persons than the proposed action.

#### **AUTHORITY**

The Department proposes to amend Section 3433 pursuant to the authority vested by Sections 407, 5301, 5302 and 5322 of the Food and Agricultural Code.

#### REFERENCE

The Department proposes this action to implement, interpret and make specific Sections 5301, 5302 and 5322 of the Food and Agricultural Code.

#### EFFECT ON SMALL BUSINESS

The amendment of this regulation may affect small businesses.

#### **CONTACT**

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed action, location of the rulemaking file, request for a public hearing, and final statement of reasons may be directed is: Stephen S. Brown, Department of Food and Agriculture, Plant Health and Pest Prevention Services, 1220 N Street, Room A–316, Sacramento, California 95814, (916) 654–1017, FAX (916) 654–1018, E–mail: <a href="mailto:sbrown@cdfa.ca.gov">sbrown@cdfa.ca.gov</a>. In his absence, you may contact Liz Johnson at (916) 654–1017. Questions regarding the substance of the proposed regulation should be directed to Stephen S. Brown.

#### **INTERNET ACCESS**

The Department has posted the information regarding this proposed regulatory action on its Internet website (<u>www.cdfa.ca.gov/cdfa/pendingregs</u>).

### AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed action, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the initial statement of reasons and the proposed regulation in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, when completed, the final statement of reasons will be avail-

able upon request. Requests should be directed to the contact named herein.

If the regulations amended by the Department differs from, but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of amendment. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer (contact) named herein.

### TITLE 4. CALIFORNIA SCHOOL FINANCE AUTHORITY

### NOTICE OF PROPOSED RULEMAKING ACTION

#### Article 2, Sections 10175 to 10191 Title 4, Division 15 California Code of Regulations

NOTICE IS HEREBY GIVEN that the California School Finance Authority (CSFA), organized and operating pursuant to Sections 17170 through 17199.5 of the Education Code, proposes to amend the proposed regulations described below after considering all comments, objections and recommendations regarding the proposed action. Any person interested may present statement or arguments relevant to the proposed action to the attention of the Contact Person as listed in this Notice no later than 5:00 p.m. on Tuesday, March 5, 2007. The CSFA Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposal substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to is adoption from the person(s) designated in this notice as Contact Person and will be mailed to those persons who submit statements related to this proposal or who have required notification of any changes to the proposal.

#### **Proposed Regulatory Action**

CSFA proposes to amend Sections 10175 through 10191 of Title 4 of the California Code of Regulations (Regulations). The Regulations implement CSFA's responsibilities related to the State Charter School Facilities Incentive Grants Program (Grant).

#### **Authority and Reference**

<u>Authority</u>: <u>Sections 17179 and 17180, Education</u> <u>Code</u>. Section 17179 provides CSFA with the authority

to do all things reasonably necessary to carry out its responsibilities. Section 17180(a) of the Education Code provides CSFA the authority to adopt bylaws for the regulation of its affairs and the conduct of its business. Subsection (d) provides CSFA with the authority to receive and accept grants from the federal government.

Reference: Sections 17078.52–17078.66 of the Education Code, section 17180(d) of the Education Code; and section 47600, et seq., of the Education Code. These Regulations implement the State Charter School Facilities Incentive Grants Program (Grant) and include a number of the requirements of that program contained in the reference code provisions and their implementing Regulations. They also rely on a number of provisions in the Charter Schools Act of 1992, commencing with section 47600 of the Education Code. Section 17180(d) provides CSFA with the authority to receive grants from the federal government.

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

CSFA was created in 1985 to assist school districts and community college districts in financing school construction projects (Education Code section 17170, et seq.). CSFA is authorized to adopt bylaws for the regulation and conduct of its business, is vested with all powers reasonably necessary to carry out its powers and responsibilities, and may receive and accept grants from a federal agency (Education Code sections 17179 and 17180).

In 2004, the United States Department of Education approved a grant award to CSFA pursuant to the State Charter School Facilities Incentive Grants Program (Grant), authorized under Title V, Part B, Subpart 1 of the Elementary and Secondary Education Act, as amended by the No Child Left Behind Act of 2001. The Grant provides for \$49,250,000 to be awarded over a five year period for the purposes of funding per–pupil facilities aid programs for California charter schools. Grant funds may be applied toward a charter school's annual costs of rent, lease, mortgage or debt service payments for facilities or toward the purchase, design and construction costs of acquiring land and constricting or renovating a facility.

Pursuant to the federal rules governing the Grant, \$9,850,000 must be allocated during each of five consecutive federal fiscal years. The first funding round began on June 28, 2005 when an emergency rulemaking file was approved by the Office of Administrative Law. Permanent Regulations implementing the Grant were approved March 24, 2006.

The allocation of these grant funds to eligible charter schools are based on preference points assigned for certain factors, including the low income population served by the school as reported by the percentage of students' eligible to receive free/reduced price meals, the school's nonprofit status, and whether a school is located in an overcrowded attendance area.

The amendments to the Regulations are briefly summarized below and are intended to clarify the requirements as well as to add a fourth preference point category and increase the weight allocated to preference points based on factors specific to each applicant charter school and also to reduce the weight allocated to the factor that is more generally based on the district where the school is located.

<u>Sections 10176 and 10177</u>. Amendments clarify the sources that will be relied upon to provide data required for the Grant program.

<u>Section 10179</u>. Amendment provides clarification of the process for awarding funds to alternate awardees, in the event grant funds become available for that purpose.

<u>Sections 10180 and 10181</u>. Amendments clarify the anticipated grant periods and the requirements for submitting applications.

Section 10182. Amendments increase the maximum preference points that may be assigned; increase the weight for the low income category by increasing the total points assigned, reduce the weight for the overcrowded school district category by decreasing the total points assigned, and add a new category of preference points by allocating ten points to each applicant charter schools that met its API Growth Target for the most recent year.

<u>Section 10183</u>. Amendment provides clarification for the tiebreaker process in the event an application is hand–delivered.

<u>Section 10188</u>. Amendments clarify that charter schools receiving awards must continue to meet all eligibility requirements throughout the term of the grant award period and specifies that actual costs need to be documented to the Executive Director's satisfaction to be eligible for reimbursement.

#### Other Matters Prescribed by Statutes Applicable To the Specific State Agency or to any Specific Regulation or Class of Regulations

No other matters prescribed by statute are applicable to CSFA or to any specific Regulation or class of Regulations pursuant to 11346.5(a)(4) of the California Government Code pertaining to the proposed Regulations or CSFA.

#### **Mandate on Local Agencies or School Districts**

CSFA has determined that the Regulations do not impose a mandate on local agencies or school districts.

#### **Fiscal Impact**

CSFA has determined that the Regulations do not impose any additional cost or savings to any state agency, any costs to any local agency or school district requiring reimbursement under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code, any other non–discretionary cost or savings to any local agency, or any cost or savings in federal funding to the State.

While CSFA will incur additional expenses in implementing and administering the Grant, the U.S. Department of Education provides that CSFA may charge such additional expenses for CSFA's administrative costs against the Grant, up to five percent. Therefore, there is no fiscal impact on the State's General Fund or requirement of additional appropriations by the Legislature. There will be no cost or savings to any State Agency pursuant to Government Code sections 11346.1(b) or 11346.5(a)(6).

#### Initial Determination Regarding any Significant, Statewide Adverse Economic Impact Directly Affecting Business

CSFA has made an initial determination that the Regulations will not have any significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

#### **Effect on Small Businesses**

CSFA has determined that the adoption of the Regulations will not affect small business. The Grant is a voluntary financing program available to charter schools to assist in the financing of charter school facilities.

#### **Cost Impacts**

The CSFA is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed actions.

### Assessment of Effect on Jobs and Business Expansion, Elimination or Creation

CSFA has determined, pursuant to Government Code section 11346.3(b), that the Regulations will not have an effect on jobs and business expansion, elimination or creation.

#### **Cost Impact on Housing**

The Regulations will not have any effect on housing costs.

#### **Reasonable Alternatives**

In accordance with Government Code Section 11346.5(a)(13), CSFA must determine that no reasonable alternative to the Regulations considered by CSFA or that has otherwise been identified and brought to the attention of CSFA would be more effective in carrying out the purpose for which the Regulations are proposed or would be as effective and less burdensome to affected private persons than the Regulations.

CSFA invites interested persons to present statements with respect to alternatives to the Regulations during the written comment period.

#### **Agency Contact Person(s)**

Written comments, inquiries, and any questions regarding the substance of the Regulations shall be submitted or directed to:

Katrina Johantgen, Executive Director California School Finance Authority 304 South Broadway, Suite 550 Los Angeles, CA 90013–1224

or

915 Capitol Mall, Room 576 Sacramento, CA 95814 (916) 651–7710

The following person is designated as a backup contact person for inquiries only regarding the Regulations:

Kristin Smith, Staff Counsel State Treasurer's Office (916) 653–2971

#### **Written Comment Period**

Any interested person, or his or her authorized representative, may submit written comments relevant to the Regulations to CSFA. The written comment period on the Regulations will end at 5:00 p.m. on March 5, 2007. All comments to be considered by CSFA must be submitted in writing to the Agency Contact Person identified in this Notice by that time. In the event that changes are made to the Regulations during the written comment period, CSFA will also accept additional written comments limited to any changed or modified Regulations for 15 calendar days after the date on which such Regulations, as changed or modified are made available to the public pursuant to title 1, Chapter 1, Section 44 of the California Code of Regulations. Such additional written comments should be addressed to the Agency Contact Person identified in this Notice.

#### Availability of Initial Statement of Reasons, Rulemaking File and Express Terms of Proposed Regulations

Pursuant to the California Government Code, CSFA has established a rulemaking file for this regulatory action, which contains those items required by law. The file is available for inspection at CSFA's office at 915 Capitol Mall, Sacramento, California, during normal business hours. As of the date this Notice is published in the Notice Register, the rulemaking file consists of this Notice, the Initial Statement of Reasons, and the proposed text of the Regulations. Copies of these items are available upon request, from the Agency Contact Person designated in this Notice. The Sacramento address will also be the location for inspection of the rulemaking file and any other public records, including reports, documentation and other materials related to this proposed regulatory action. In addition, the rulemaking file, including the Initial Statement of Reasons and the proposed text, may be viewed on CSFA's Web site at www.treasurer.ca.gov/csfa.

#### **Public Hearing**

No public hearing regarding the Regulations has been scheduled. Anyone wishing a public hearing must submit a request in writing, pursuant to Section 11346.8 of the Government Code, to CSFA at least 15 days before the end of the written comment period. Such request should be addressed to the Agency Contact Person identified in this Notice and should specify the Regulations for which the hearing is being requested.

#### 15-Day Availability of Changed or Modified Text

After the written comment period ends and following a public hearing, if any is requested, CSFA may adopt the Regulations substantially as described in this Notice, without further notice. If CSFA makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public (including through CSFA's Web site described above) for at least fifteen (15) calendar days before CSFA adopts the proposed Regulations, as modified. Inquiries about and requests for written copies of any changed or modified regulations should be addressed to the Agency Contact Person identified in this Notice.

#### **Availability of Final Statement of Reasons**

CSFA is required to prepare a Final Statement of Reasons pursuant to Government Code section 11346.9. Once CSFA has prepared a Final Statement of Reasons,

a copy will be made available to anyone who requests a copy and will be available on CSFA's Web site described above. Written requests for copies should be addressed to the Agency Contact Person identified in this Notice.

#### TITLE 5. BOARD OF EDUCATION

#### NOTICE OF PROPOSED RULEMAKING AMENDMENTS TO CALIFORNIA CODE OF REGULATIONS, TITLE 5 REGARDING FACILITIES FOR CHARTER SCHOOLS

[Notice to be published January 19, 2007]

**NOTICE IS HEREBY GIVEN** that the State Board of Education (SBE) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

#### **PUBLIC HEARING**

California Department of Education staff (CDE), on behalf of the SBE, will hold a public hearing beginning at **1:00 p.m. on March 5, 2007**, at 1430 N Street, Room 1101, Sacramento. The room is wheelchair accessible. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The SBE requests that any person desiring to present statements or arguments orally notify the Regulations Coordinator of such intent. The SBE requests, but does not require, that persons who make oral comments at the hearing also submit a written summary of their statements. No oral statements will be accepted subsequent to this public hearing.

#### WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to:

Debra Strain, Regulations Coordinator LEGAL DIVISION California Department of Education 1430 N Street, Room 5319 Sacramento, California 95814

Comments may also be submitted by facsimile (FAX) at 916–319–0155 or by e-mail to regcomments@cde.ca.gov. Comments must be re-

ceived by the Regulations Coordinator prior to **5:00** p.m. on March **5, 2007**.

### AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public hearing and considering all timely and relevant comments received, the SBE may adopt the proposed regulations substantially as described in this Notice or may modify the proposed regulations if the modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified regulation will be available for 15 days prior to its adoption from the Regulations Coordinator and will be mailed to those persons who submit written comments related to this regulation, or who provide oral testimony at the public hearing, or who have requested notification of any changes to the proposal.

#### **AUTHORITY AND REFERENCE**

Authority: Section 47614, Education Code. Reference: Section 47614, Education Code.

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Education Code (EC) sections 47605 and 47605.6 authorize the establishment of charter schools upon the approval of charter petitions that meet specified requirements. Depending on particular circumstances, petitions may be approved by school district governing boards, county boards of education, or the SBE. The body approving a petition is known as the charter authorizer.

Regardless of the charter authorizer, *EC* section 47614, established by Proposition 39 (November 2000), requires each school district to make available to each charter school operating within the district "facilities sufficient for the charter school to accommodate all of the charter school's in–district students in conditions reasonable equivalent to those in which the students would be accommodated if they were attending other public schools of the district."

In 2002, the SBE adopted regulations to implement the provisions of *EC* section 47614. The regulations are located in *California Code of Regulations*, title 5, division 1, chapter 11, subchapter 19, article 3 (commencing with section 11969.1).

CDE staff received direction to review the existing regulations with the assistance of a workgroup broadly representative of the education community, including charter schools, school administrators, school boards, and teachers. The specific objective was to identify

amendments that would update, clarify, or enhance the existing regulations based on the past four years' experience, including pertinent published appellate level decisions.

The proposed amendments will clarify and expand existing provisions with regards to facilities and the operation and maintenance of charter schools and add content to the section pertaining to procedures and timelines for dispute resolution.

### DISCLOSURES REGARDING THE PROPOSED REGULATION

The SBE has made the following initial determinations:

Mandate on local agencies or school districts: None Cost or savings to state agencies: None

Costs to any local agencies or school districts for which reimbursement would be required pursuant to Part 7 (commencing with section 17500) of Division 4 of the Government Code: None

Other non-discretionary cost or savings imposed on local educational agencies: None

Cost or savings in federal funding to the state: None

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states; None

Cost impacts on a representative private person or businesses: The State Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations will not 1) create or eliminate jobs within California; 2) create new businesses or eliminate existing businesses within California; or 3) affect the expansion of businesses currently doing business within California.

Effect on housing costs: None

Effect on small businesses: The proposed regulations would not have a significant adverse economic impact on any business because they relate only to charter schools, school district, and the CDE, and not to small business practices.

#### CONSIDERATION OF ALTERNATIVES

The SBE must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the SBE, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective as and less burdensome to affected private persons than the proposed action.

The SBE invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

#### **CONTACT PERSONS**

Inquiries concerning the content of this regulation may be directed to:

Greg Geeting, Consultant Charter Schools Division California Department of Education 1430 N Street, Room 5401 Sacramento, CA 95814 Telephone: 916–323–3906 E-mail: GGeeting@cde.ca.gov

Inquiries concerning the regulatory process may be directed to the Regulations Coordinator or Connie Diaz, Regulations Analyst, at 916–319–0860.

#### INITIAL STATEMENT OF REASONS AND INFORMATION

The SBE has prepared an initial statement of reasons for the proposed regulation and has available all the information upon which the proposal is based.

### TEXT OF PROPOSED REGULATION AND CORRESPONDING DOCUMENTS

Copies of the exact language of the proposed regulation and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Regulations Coordinator. These documents may also be viewed and downloaded from the CDE's Web site at <a href="http://www.cde.ca.gov/re/lr/rr">http://www.cde.ca.gov/re/lr/rr</a>.

#### AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the Regulations Coordinator.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the Regulations Coordinator.

### REASONABLE ACCOMMODATION FOR ANY INDIVIDUAL WITH A DISABILITY

Pursuant to the *Rehabilitation Act of 1973*, the *Americans with Disabilities Act of 1990*, and the *Unruh Civil* 

Rights Act, any individual with a disability who requires reasonable accommodation to attend or participate in a public hearing on proposed regulations, may request assistance by contacting Greg Geeting, Consultant, Charter Schools Division, 1430 N Street, Room 5401, Sacramento, CA, 95814; telephone, 916–323–3906, or by email at GGeeting@cde.ca.gov. It is recommended that assistance be requested at least two weeks prior to the hearing.

#### TITLE 5. BOARD OF EDUCATION

#### NOTICE OF PROPOSED RULEMAKING AMENDMENT TO TITLE 5, CALIFORNIA CODE OF REGULATIONS REGARDING INSTRUCTIONAL MATERIALS

[Notice published January 19, 2007]

**NOTICE IS HEREBY GIVEN** that the State Board of Education (SBE) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

#### **PUBLIC HEARING**

California Department of Education (CDE) staff, on behalf of the SBE, will hold a public hearing beginning at 8:30 a.m. on March 13, 2007 at 1430 N Street, Room 1101, Sacramento. The room is wheelchair accessible. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The SBE requests that any person desiring to present statements or arguments orally notify the Regulations Coordinator of such intent. The SBE requests, but does not require, that persons who make oral comments at the hearing also submit a written summary of their statements. No oral statements will be accepted subsequent to this public hearing.

#### WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to:

Debra Strain, Regulations Coordinator LEGAL DIVISION California Department of Education 1430 N Street, Room 5319 Sacramento, California 95814 Comments may also be submitted by facsimile (FAX) at 916–319–0155 or by e-mail to regcomments@cde.ca.gov. Comments must be received by the Regulations Coordinator prior to **5:00** p.m. on March 13, 2007.

### AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public hearing and considering all timely and relevant comments received, the SBE may adopt the proposed regulations substantially as described in this Notice or may modify the proposed regulations if the modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified regulation will be available for 15 days prior to its adoption from the Regulations Coordinator and will be mailed to those persons who submit written comments related to this regulation, or who provide oral testimony if a public hearing is held, or who have requested notification of any changes to the proposal.

#### **AUTHORITY AND REFERENCE**

Authority: Section 30331, 60005, 60048, 60200 and 60206, Education Code.

Reference: Sections 33530, 60010, 60040–60044, 60048, 60061, 60061.5, 60200, 60200.2, 60202, 60203, 60204, 60205, 60206, 60221, 60222, 60223 and 60227, Education Code; Section 11125.7, Government Code.

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

In a recent court case, (HINDU AMERICAN FOUNDATION, et al., Case No. 06 CS 00386), the court ruled that the regulations under which the State of California is currently conducting the adoption of kindergarten through grade eight instructional materials have not been properly enacted under the Administrative Procedures Act (APA). Therefore, these regulations, currently found at sections 9510–9530 of the *California Code of Regulations (CCR)*, title 5, division 1, will be revised, renumbered and adopted pursuant to the Administrative Procedure Act.

The purpose of the regulations is to establish a clear, transparent process for the adoption of curriculum frameworks, evaluation criteria and instructional materials for kindergarten through grade eight in California.

#### INCORPORATION BY REFERENCE

One document is also incorporated by reference in the proposed regulations:

 Standard for Evaluating Instructional Materials for Social Content, 2000
 Posted on the CDE Web site at http://www.cde.ca.gov/ci/cr/cf/lc/asp.

#### DISCLOSURES REGARDING THE PROPOSED REGULATION

The SBE has made the following initial determinations:

Mandate on local agencies or school districts: None Cost or savings to state agencies: None

Costs to any local agencies or school districts for which reimbursement would be required pursuant to Part 7 (commencing with section 17500) of division 4 of the Government Code: None

Other non-discretionary cost or savings imposed on local educational agencies: None

Cost or savings in federal funding to the state: None Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None

Cost impacts on a representative private person or businesses: The SBE is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations will not 1) create or eliminate jobs within California; 2) create new businesses or eliminate existing businesses within California; or 3) affect the expansion of businesses currently doing business within California.

Effect on housing costs: None

Effect on small businesses: The proposed regulations would not have a significant adverse economic impact on any business because they relate only to school districts and not to small business practices.

#### CONSIDERATION OF ALTERNATIVES

The SBE must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the SBE, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action.

The SBE invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

#### **CONTACT PERSONS**

Inquiries concerning the content of this regulation may be directed to:

Jean James, Education Program Assistant California Department of Education Instructional Resources Unit 1430 N Street, 3<sup>rd</sup> Floor Sacramento, CA 95814 Telephone: 916–319–0444

E-mail: jjames@cde.ca.gov

Inquiries concerning the regulatory process may be directed to the Regulations Coordinator or Connie Diaz, Regulations Analyst, at 916–319–0860.

### INITIAL STATEMENT OF REASONS AND INFORMATION

The SBE has prepared an initial statement of reasons for the proposed regulation and has available all the information upon which the proposal is based.

### TEXT OF PROPOSED REGULATION AND CORRESPONDING DOCUMENTS

Copies of the exact language of the proposed regulation and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Regulations Coordinator. These documents may also be viewed and downloaded from the CDE's Web site at <a href="http://www.cde.ca.gov/re/lr/rr">http://www.cde.ca.gov/re/lr/rr</a>.

#### AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the Regulations Coordinator.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the Regulations Coordinator.

### REASONABLE ACCOMMODATION FOR ANY INDIVIDUAL WITH A DISABILITY

Pursuant to the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, and the Unruh Civil Rights Act, any individual with a disability, who requires reasonable accommodation to attend or participate in a public hearing on proposed regulations, may request assistance by contacting Jean James, Instructional Resources Unit, 1430 N Street, Sacramento, CA,

95814; telephone, 916–319–0444. It is recommended that assistance be requested at least two weeks prior to the hearing.

#### TITLE 5. BOARD OF EDUCATION

NOTICE OF PROPOSED RULEMAKING AMENDMENT TO TITLE 5, CALIFORNIA CODE OF REGULATIONS REGARDING THE MATHEMATICS AND READING PROFESSIONAL DEVELOPMENT PROGRAM

**NOTICE IS HEREBY GIVEN** that the State Board of Education (SBE) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

#### **PUBLIC HEARING**

California Department of Education (CDE) staff, on behalf of the SBE, will hold a public hearing beginning at **10:00 a.m. on March 16, 2007**, at 1430 N Street, Room 1101, Sacramento. The room is wheelchair accessible. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The SBE requests that any person desiring to present statements or arguments orally notify the Regulations Coordinator of such intent. The SBE requests, but does not require, that persons who make oral comments at the hearing also submit a written summary of their statements. No oral statements will be accepted subsequent to this public hearing.

#### WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to:

Debra Strain, Regulations Coordinator LEGAL DIVISION California Department of Education 1430 N Street, Room 5319 Sacramento, California 95814

Comments may also be submitted by facsimile (FAX) at (916) 319–0155 or by e-mail to <u>regulations@cde.ca.gov</u>. Comments must be received by the Regulations Coordinator prior to **5:00 p.m. on March 16,2007**.

### AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public hearing and considering all timely and relevant comments received, the SBE may adopt the proposed regulations substantially as described in this Notice or may modify the proposed regulations if the modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified regulation will be available for 15 days prior to its adoption from the Regulations Coordinator and will be mailed to those persons who submit written comments related to this regulation, or who provide oral testimony if a public hearing is held, or who have requested notification of any changes to the proposal.

#### **AUTHORITY AND REFERENCE**

Authority: Section 99236, Education Code. Reference: Sections 99231, 99233, 99234, 99237, 99237.5, and 99240, Education Code.

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Currently, the Title 5 Regulations for the Mathematics and Reading Professional Development (MRPD) Program provide guidance to local educational agencies (LEAs) related to assurances of compliance, teacher eligibility, funding allocation, instructional materials, definition of instructional materials otherwise authorized by the SBE, instructional aides and paraprofessionals, participation requirements, and eligibility of LEAs. Regulations do not currently exist related to the program's training curriculum, standards for curriculum review, and standards for training providers. The proposed Regulations will correct this and provide for a consistent standard related to the professional development provided by SBE-approved training providers as set forth under Senate Bill (SB) 472 and the SBE approved (November, 2006) SB 472 Guidelines and Criteria for Training Curriculum.

Under AB 466, training curriculum for the MRPD Program included the academic content standards, the state—adopted curriculum frameworks, and the use of instructional materials that will be used by pupils and are aligned to the academic content standards. SB 472 now requires that instructional strategies designed to help all pupils gain mastery of the California academic content standards with special emphasis on English language learners and pupils with exceptional needs be included in training curriculum submitted by training providers. The new SB 472 training requirement related to all pupils gain mastery is a major emphasis included

in the new SBE approved *Guidelines and Criteria for Training Curriculum*. The proposed Regulations will ensure that new SB 472 training requirements will be included in the training curriculum as SB 472 begins implementation in January 2007.

In addition, the proposed regulations address concerns raised by the Bureau of State Audits' (BSA) draft audit report 2006–133.

#### DISCLOSURES REGARDING THE PROPOSED REGULATION

The State Board has made the following initial determinations:

Mandate on local agencies or school districts: None.

Cost or savings to state agencies: None.

Costs to any local agencies of school districts for which reimbursement would be required pursuant to Part 7 (commencing with section 17500) of division 4 of the Government Code: None.

Other non–discretionary cost or savings imposed on local educational agencies: None.

Cost or savings in federal funding to the state: None.

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states; None.

Cost impacts on a representative private person or businesses: The SBE is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations may: (1) create or eliminate jobs within California; (2) create new businesses within California; or (3) cause the expansion of businesses currently doing business within California.

Effect on housing costs: None.

Effect on small businesses: To the extent a business chooses to participate in the Mathematics and Reading Professional Development Program, the proposed regulations may have an adverse economic impact.

#### CONSIDERATION OF ALTERNATIVES

The SBE must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the SBE, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action.

The SBE invites interested persons to present statements or arguments with respect to alternatives to the

proposed regulations at the scheduled hearing or during the written comment period.

#### **CONTACT PERSONS**

Inquiries concerning the content of this regulation may be directed to:

Ellen Jensen, Consultant

Professional Development and Curriculum Support Division

California Department of Education

1430 N Street, Suite 4309

Sacramento, CA 95814

Telephone: (916) 323-4873

Inquiries concerning the regulations process may be directed to the Regulations Coordinator or Connie Diaz, Regulations Analyst, at (916) 319–0860.

#### INITIAL STATEMENT OF REASONS AND INFORMATION

The SBE has prepared an initial statement of reasons for the proposed regulation and has available all the information upon which the regulation is based.

### TEXT OF PROPOSED REGULATION AND CORRESPONDING DOCUMENTS

Copies of the exact language of the proposed regulation and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Regulations Coordinator. These documents may also be viewed and downloaded from the California Department of Education's Web site at <a href="http://www.cde.ca.gov/re/lr/rr">http://www.cde.ca.gov/re/lr/rr</a>.

#### AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the Regulations Coordinator.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the Regulations Coordinator.

### REASONABLE ACCOMMODATION FOR ANY INDIVIDUAL WITH A DISABILITY

Pursuant to the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, and the Unruh Civil

Rights Act, any individual with a disability who requires reasonable accommodation to attend or participate in a public hearing on proposed regulations, may request assistance by contacting Ellen Jensen, Professional Development and Curriculum Support Division, 1430 N Street, Sacramento, CA, 95814; telephone, (916) 323–4873; fax, (916) 323–2806. It is recommended that assistance be requested at least two weeks prior to the hearing.

### TITLE 10. DEPARTMENT OF INSURANCE

REG-2006-00010

January 5, 2007

### NOTICE OF PROPOSED ACTION AND NOTICE OF PUBLIC HEARING

#### SUBJECT OF PROPOSED RULEMAKING

Notice is hereby given that the Insurance Commissioner proposes to amend Title 10, Chapter 5, Subchapter 7.7, Sections 2697.6 and 2697.61 of the California Code of Regulations (10 CCR §§2697.6 and 2697.61).

#### **AUTHORITY AND REFERENCE**

The Commissioner proposes to amend the regulations under the express authority of California Insurance Code Sections 10087, 10089.5(c), 10089.11, 10089.20 and 10089.26(a)(1). The proposed regulations will implement, interpret and make specific the provisions of California Insurance Code Sections 10089, 10089.11(a), 10089.28(b) and 12921.

#### **PUBLIC HEARING**

The Commissioner will hold a public hearing to provide all interested persons an opportunity to present statements or arguments, either orally or in writing, with respect to this regulation, as follows:

Date: Monday, March 5, 2007

Time: 10:00 a.m.

**Location: Board Meeting Room** 

State Board of Equalization 450 N Street, 1<sup>st</sup> Floor

Sacramento, California 95814

The hearing will continue on the date noted above until all testimony has been submitted or 5:00 p.m., whichever is earlier.

### PRESENTATION OF WRITTEN COMMENTS; CONTACT PERSONS

All persons are invited to present oral and/or written comments at the hearing. Written comments not presented at the hearing must be addressed to the following contact person:

Lisbeth Landsman–Smith, Staff Counsel California Department of Insurance 300 Capitol Mall, 17<sup>th</sup> Floor Sacramento, CA 95814 Telephone: (916) 492–3561

E-mail: landsmanl@insurance.ca.gov

Questions regarding procedure, comments, or the substance of the proposed action should be addressed to the above contact person. If she is unavailable, inquiries may be addressed to the following backup contact person:

Bruce Patton, Senior Staff Counsel California Department of Insurance 300 Capitol Mall, 17<sup>th</sup> Floor Sacramento, CA 95814 Telephone: (916) 492–3560

#### DEADLINE FOR WRITTEN COMMENTS

All written materials must be received by the Insurance Commissioner, addressed to the contact person at her address listed above, no later than 5:00 p.m. on March 5, 2007. Any written materials received after that time will not be considered.

### COMMENTS TRANSMITTED BY ELECTRONIC COMMUNICATION

The Commissioner will accept written comments transmitted by e-mail provided they are sent to the following e-mail address: landsmanl@insurance.ca.gov. The Commissioner will also accept written comments transmitted by facsimile provided they are directed to the attention of the contact person for this proceeding using the following facsimile number: (916) 324–1883. Comments shall be transmitted by one method only and are subject to the deadline set forth above for written comments. Comments sent to other e-mail addresses or other facsimile numbers will not be accepted.

#### ACCESS TO HEARING ROOMS

The facilities to be used for the public hearing are accessible to persons with mobility impairments. Persons with sight or hearing impairments are requested to

notify the contact person for this hearing in order to make special arrangements, if necessary.

#### ADVOCACY OR WITNESS FEES

Persons or groups representing the interests of consumers may be entitled to reasonable advocacy fees, witness fees, and other reasonable expenses, in accordance with Insurance Code Section 10089.11(c) and the provisions of Subchapter 4.9, Title 10, California Code of Regulations, in connection with their participation in this matter. Persons interested in inquiring about the appropriate procedures should contact the Office of the Public Advisor at the following address:

California Department of Insurance Office of the Public Advisor 300 Capitol Mall, 17<sup>th</sup> Floor Sacramento, California 95814 (916) 492–3559

A copy of any written materials submitted to the Public Advisor regarding this rulemaking shall also be submitted to the contact person for this hearing. Please contact the Office of the Public Advisor for further information.

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The California Earthquake Authority ("CEA") was established by Legislative enactment of Chapter 8.6 of Part 1 of Division 2 of the Insurance Code (Insurance Code sections 10089.5 et seq.). Certain aspects of the CEA's operations are identified in Insurance Code Section 10089.11 requiring the promulgation of regulations. In accordance, the Commissioner promulgated certain regulations under Title 10, Chapter 5, Subchapter 7.7 [California Earthquake Authority] of the Code of Regulations (CCR).

Under the existing regulations, no mechanism exists whereby the CEA may transfer base–capital funds for optional–limits program financial support. The Department proposes to amend Section 2697.6(e) and 26970.61 in order to provide such a mechanism. Under the proposed amendment, Section 2697.6(e) will be changed to allow the CEA to make intra–Authority transfers. Furthermore, subsections (b)(iii) through (b)(v) will be added to Section 2697.61: subsection (b)(iii) will permit transfers of base–capital funds for Supplemental Limits Program financial support provided that the Governing Board makes certain findings regarding the appropriateness of the loan and also provided that the loan is reimbursed within three years; subsection (b)(iv) provides a formula for the calculation

of the maximum transfer of capital from the base program; and, subsection (b)(v) sets forth circumstances barring such a transfer and sets an expiration date.

#### COMPARABLE FEDERAL LAW

There are no existing federal regulations or statutes comparable to the proposed regulations.

#### OTHER STATUTORY REQUIREMENTS

There are no other specific statutory requirements applicable to the proposed regulation.

The Commissioner has made the following initial determinations:

#### **Mandates On Local Agencies Or School Districts**

— Regulatory action imposed herein will result in no program mandates on local agencies or school districts.

**Fiscal Impact** — The regulation will involve no costs or savings to any State agency, no reimbursable costs to local agencies or school districts under Part 7 (commencing with Section 17500) of Division 4 of the Government Code; no nondiscretionary costs or savings to local agencies, and no costs or savings in federal funding to the State.

**Impact On Housing Costs** — The proposed regulation will have no significant effect on housing costs.

**Economic Impact On Businesses** — The proposed regulation will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states because the proposed regulations only enable the CEA's financing of its supplemental limits program reinsurance.

Cost Impact On Private Persons Or Entities/Businesses — The Commissioner is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Assessment Regarding Effect On Jobs/Businesses

— The regulation will not affect the creation or elimination of jobs in the State of California, the creation of new businesses or the elimination of businesses in the State of California, and the expansion of businesses currently doing business within the State of California.

Impact On Small Business — The proposed amendment will only affect insurance companies and will therefore not affect small business. Pursuant to Government Code section 11342.610(b)(2), insurers are not small businesses. All reinsurers are necessarily insurers.

#### **ALTERNATIVES**

The Commissioner must determine that no reasonable alternative considered by the Commissioner or that

has otherwise been identified and brought to the attention of the Commissioner would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action. The Commissioner invites public comment on alternatives to this regulation.

### TEXT OF REGULATIONS AND STATEMENT OF REASONS

The Commissioner has prepared an initial statement of reasons that sets forth the reasons for the proposed action. The Commissioner also has available all the information upon which this proposed action is based as well as the express terms of the proposed action. The initial statement of reasons and the text of the proposed amendment are available on the Department's website and may be accessed as explained below.

The Commissioner will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the address above, which currently includes this notice, the proposed text of the regulation, and the initial statement of reasons. Requests for inspection and copying should be directed to the contact person listed above. The final statement of reasons will be made available for inspection and copying once it has been prepared. Requests for the final statement of reasons should also be directed to the contact person listed above.

#### **AUTOMATIC MAILING**

A copy of this notice, including the informative digest, which contains the general substance of the proposed regulation, will automatically be sent to all persons on the Insurance Commissioner's mailing list.

#### **WEBSITE POSTINGS**

Documents concerning this proceeding are available on the Department's website. To access them, go to http://www.insurance.ca.gov. Find, near at the top of the leftmost column, the pull down menu under the heading "Quick Links." Select the "Legal Information" link. On the "Legal Information" page, click on the "Proposed Regulations" link. When the "Search or Browse for Documents for Proposed Regulations" screen appears, you may choose to find the documents either by conducting a search or by browsing for them by name.

To search, enter "REG-2006-00010" (the Department's regulation file number for this regulation) in the search field. Alternatively, search using as your search term the California Insurance Code section number of a

code section that the regulations implement (for instance, "10089.11"), or search by keyword ("CEA," for example, or "earthquake"). Then, click on the "Submit" button to display links to the various filing documents.

To browse, click on the "Browse All Regulations" button near the bottom of the screen. A list of the names of regulations for which documents are posted will appear.

### AVAILABILITY OF MODIFIED TEXT OF REGULATION

In response to public comment, the Commissioner may determine that changes to the proposed text are appropriate. If the Commissioner makes changes that are sufficiently related to the original proposed text, copies of the changed text (with the changes clearly indicated) will be made available to the public for at least 15 days before the Commissioner adopts the regulation as modified. Please send requests for copies of any changed text to the Contact Person listed above. Copies of the changed text will automatically be sent to all persons who testified or presented comments at the public hearing or submitted written comments during the comment period, and to anyone who requested information regarding the proposal. The Commissioner will accept written comments concerning the changes only, for a period of at least 15 days after the date on which the changed text is made available.

### TITLE 10. CALIFORNIA DEPARTMENT OF REAL ESTATE

#### NOTICE OF PROPOSED CHANGES IN THE REGULATIONS OF THE REAL ESTATE COMMISSIONER

Jeff Davi, Real Estate Commissioner, proposes to adopt, amend and/or repeal the proposed regulations described below in Title 10, California Code of Regulations, after considering all comments, objections and recommendations regarding the proposed action.

#### PROPOSED REGULATORY ACTION

The Commissioner proposes to adopt, amend and/or repeal sections 2716, 2716.1, 2790.1, 2790.1.5, 2810, and 2810.5 in Title 10 of the California Code of Regulations (CCR).

#### **PUBLIC COMMENTS**

The Commissioner or his representative will hold a public hearing starting at 10:00 AM, on March 8, 2007,

at the Department of Real Estate Examination Room, located at 2200 X Street, Suite 120B, Sacramento, California. The Examination Room is wheelchair accessible. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony to the Commissioner.

This hearing will be a hearing under Sections 10226 and 11011 of the Business and Professions Code to determine whether license and subdivision fees lower than the statutory maximum should be prescribed.

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Commissioner. The written comment period closes on March 8, 2007. All written comments must be received by 5:00 p.m. on that date at the Department's Sacramento Office as follows:

David B. Seals, Real Estate Counsel Department of Real Estate 2201 Broadway P.O. Box 187000 Sacramento, CA 95818–7000

Telephone: (916) 227-0789

Comments may be sent via electronic mail to regulations@dre.ca.gov or via fax to David B. Seals at (916) 227–9458.

#### **AUTHORITY AND REFERENCE**

The changes to the regulations are authorized by Business and Professions Code sections 10080, 10226, 10232, 10232.2, 10238, 11001, 11011 and 11281 to implement, interpret or make specific Business and Professions Code sections 10153.4, 10201, 10209.5, 10210, 10214.5, 10215, 11004.5, 11010, 11011, 11018.5, and 11232.

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

#### SUMMARY OF EXISTING LAWS AND REGULATIONS

Sections 10201, 10209.5, 10210, 10214.5 and 10215 of the Business and Professions Code specify the maximum fees to be charged for the various licenses of real estate brokers and salespersons, for the renewal or late renewal of those licenses, and for examinations re-

quired to obtain the licenses. Section 2716 of the Regulations was originally adopted to comply with these statutes and specify the appropriate fees if these are less than the maximums allowed by the statutes. As a result of various factors, in 1997, Section 10226 of the Business and Professions Code was amended and Section 10226.5 was adopted to require the Department to assess the fees charged and revenues raised from those fees to determine if fees should be raised or lowered. Section 2716.1 was adopted in 2003 to stabilize the fees while maintaining compliance with the new and amended statutes. The changes proposed herein in Regulation Sections 2716 and 2716.1 are intended to implement, interpret or make specific the applicable laws and regulations cited hereinabove.

Section 11011 of the Business and Professions Code specifies the maximum filing fees in connection with applications to the Department relating to subdivisions. Section 2790.1 of the Regulations was originally adopted to comply with this statute and specify the appropriate fees if these are less than the maximums allowed by the statute. As a result of various factors, in 1997, Section 10226 of the Business and Professions Code was amended and Section 10226.5 was adopted to require the Department to assess the fees charged and revenues raised from those fees to determine if fees should be raised or lowered. Section 2790.1.5 was adopted in 2003 to stabilize the fees while maintaining compliance with the new and amended statutes. The changes proposed herein in Regulation Sections 2790.1 and 2790.1.5 are intended to implement, interpret or make specific the applicable laws and regulations cited hereinabove.

Section 11232 of the Business and Professions Code. part of the Vacation Ownership and Time-Share Act of 2004, specifies the maximum filing fees in connection with applications to the Department relating to timeshare interests. Section 2810 of the Regulations was originally adopted to comply with this statute and specify the appropriate fees if these are less than the maximums allowed by the statute. After adopting Section 2810 it was discovered that some of the wording was ambiguous and needs to be clarified. As a result of various factors, in 1997, Section 10226 of the Business and Professions Code was amended and Section 10226.5 was adopted to require the Department to assess the fees charged and revenues raised from those fees to determine if fees should be raised or lowered. Section 2810.5 was adopted in 2005 to stabilize the fees while maintaining compliance with the new and amended statutes. The changes proposed herein in Regulation Sections 2810 and 2810.5 are intended to implement, interpret or make specific the applicable laws and regulations cited hereinabove.

#### SUMMARY OF THE EFFECT OF THE PROPOSED ACTION

#### **REPEAL OF SECTION 2716**

Repeals this section because it is obsolete if the amendments to Section 2716.1 are adopted.

#### **AMENDMENT OF SECTION 2716.1**

Removes the July 1, 2007 sunset provision to maintain fees, charged for the various licenses of real estate brokers and salespersons, for the renewal or late renewal of those licenses, and for examinations required to obtain the licenses, at 1982 levels.

#### **REPEAL OF SECTION 2790.1**

Repeals this section because it is obsolete if the amendments to Section 2790.1.5 are adopted.

#### **AMENDMENT OF SECTION 2790.1.5**

Removes the July 1, 2007 sunset provision to maintain filing fees, in connection with applications to the Department relating to subdivisions, at 1982 levels.

#### **REPEAL OF SECTION 2810**

Repeals this section because it is obsolete if the amendments to Section 2810.5 are adopted.

#### **AMENDMENT OF SECTION 2810.5**

Removes the July 1, 2007 sunset provision to maintain filing fees, in connection with applications to the Department relating to time—share interests, at present levels.

#### EFFECT ON SMALL BUSINESS

The proposed regulatory changes will not adversely affect small business because the changes either remove a sunset date (which has the effect of maintaining the status quo) or repeal a regulation which becomes obsolete because of the removal of the sunset date in a complementary regulation.

#### DISCLOSURES REGARDING THE PROPOSED ACTION

1. Plain English drafting: The Commissioner has confirmed that these regulations have been drafted in

- plain English pursuant to Government Code sections 11342.580 and 11346.2(a)(1).
- 2. Mandate on local agencies and school districts: None
  - 3. Cost or savings to any state agency: None.
- 4. Cost to any local agency or school district which must be reimbursed in accordance with Government Code section 17561: None.
- 5. Other non–discretionary cost or savings imposed upon local agencies: None.
- 6. Cost or savings in federal funding to the state: None.
- 7. The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- 8. The Commissioner has made an initial determination that the adoption, amendment or repeal of these regulations will not have a significant state—wide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- 9. Impact on jobs and business expansion, elimination or creation: The Commissioner has determined that this regulatory proposal will not have a significant impact on the creation or elimination of jobs within the State of California nor will it significantly affect the creation of new businesses, the elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California.
  - 10. Significant effect on housing costs: None.

#### CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Commissioner must determine that no reasonable alternative he considered or that has otherwise been identified and brought to his attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Commissioner invites interested persons to present statements or arguments with respect to alternatives to the proposed regulatory action during the written comment period.

#### **CONTACT PERSON**

Inquiries concerning the proposed action may be directed to:

David B. Seals, Real Estate Counsel Department of Real Estate 2201 Broadway P. O. Box 187000 Sacramento, CA 95818–7000

Telephone: (916) 227–0789

The backup contact person is:

James L. Beaver, Assistant Chief Counsel Department of Real Estate 2201 Broadway P. O. Box 187000 Sacramento, CA 95818–7000

Telephone: (916) 227-0789

The name of the person who can respond to questions concerning the substance of the proposed regulatory action is:

David B. Seals, Real Estate Counsel Department of Real Estate 2201 Broadway P. O. Box 187000 Sacramento, CA 95818–7000

Telephone: (916) 227-0789

Please direct requests for copies of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, or other information upon which the rulemaking is based to:

David B. Seals, Real Estate Counsel Department of Real Estate 2201 Broadway P. O. Box 187000 Sacramento, CA 95818–7000

Telephone: (916) 227–0789

#### AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS AND INTERNET SITE

The Commissioner will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at his office, at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. The final statement of reasons once it is prepared pursuant to Section 11346.9 of the Government Code will also be a part of the rulemaking file and available for inspection and copying as indicated above. Por-

tions of the rulemaking file and information regarding the Department are available through our website (www.dre.ca.gov). The express terms of the proposed action written in plain English are available from the agency contact person named in this notice. Copies may be obtained by contacting David B. Seals at the address and phone number listed above.

### AVAILABILITY OF CHANGED OR MODIFIED TEXT

The Real Estate Commissioner may, on his own motion or at the recommendation of any interested person made by written or oral comment, modify the Proposed Regulation and adopt the Regulation Change as modified if the change is determined to be one that the public could have reasonably anticipated from this Notice, the Informative Digest, and the Initial Statement of Reasons

If the Commissioner decides to modify the Proposed Regulation change, the Department will make copies of the full text of the regulation, as originally proposed with the proposed modifications clearly indicated, available for not less than 15 days prior to adopting the modified regulation. Copies of the modified regulation will be mailed to all persons who have made written or oral comments concerning the Proposed Regulation and all persons who have requested notification of availability of the modifications.

Requests for modified regulations or other communications concerning the Proposed Regulation change should be addressed to the Department's contact person, David B. Seals, at the address and/or telephone number above.

#### COMPLIANCE WITH GOVERNMENT CODE §11346.4(A)(1) THROUGH (4)

The Department of Real Estate (the Department) has complied with Government Code §11346.4(a)(1) through (4) and Section 86, Title 10 of the California Code of Regulations, by mailing or delivering a copy of this Notice of Proposed Changes in the Regulations of the Real Estate Commissioner and of the Proposed Regulations with changes indicated in strikeout and underline to the Department's list of interested persons including:

- 1. Every person who has filed a Request for Notice of Regulatory Action with the Department.
- 2. The Director of the Department. (The Real Estate Commissioner and the Secretary of the Business, Transportation and Housing Agency).
- 3. A substantial number of real estate brokers. They are predominantly small businesses, some of which may be, or have been in the past, affected by

- our Proposed Regulation change. The Department has no way of knowing which are small businesses.
- 4. The California Association of Realtors, a real estate licensee trade organization and the California Building Industry Association, a homebuilders trade organization.
- 5. A substantial number of land developers. Not small businesses by definition, but some of which may be, or have been in the past, affected by our Proposed Regulations.

### TITLE 16. BUREAU OF AUTOMOTIVE REPAIR

NOTICE OF PROPOSED REGULATORY ACTION AND PUBLIC HEARING CONCERNING

# LOW-PRESSURE FUEL EVAPORATIVE SYSTEM LEAK TESTING AND INITIAL TESTING OF TEST-ONLY DIRECTED VEHICLES AT GOLD SHIELD STATIONS

NOTICE IS HEREBY GIVEN that the Department of Consumer Affairs/Bureau of Automotive Repair (hereinafter "Bureau") is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at hearings to be held at the following locations on the following dates:

#### SOUTHERN CALIFORNIA

March 7, 2007, 10:00 a.m.

Bureau of Automotive Repair Conference/Training Room 1180 Durfee Avenue, Suite 120 South El Monte, CA 91733

#### NORTHERN CALIFORNIA

March 9, 2007, 10:00 a.m.

Contractors State Licensing Board Hearing Room 9821 Business Park Drive Sacramento, California 95827

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under <u>Contact</u> <u>Person</u> in this Notice, must be <u>received</u> by the <u>Bureau</u> at its office not later than 5:00 p.m. on March 9, 2007, or must be received by the Bureau at one of the above referenced hearings. Comments sent to persons or addresses other than those specified under Contact Person, or received after the date and time specified above, regardless of the manner of transmission, will not be considered or included in the record of this proposed regulatory action. The Bureau, upon its own motion or at the instance of any interested party, may thereafter formally adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit oral or written testimony related to this proposal or who have requested notification of any changes to the proposal.

#### **AUTHORITY AND REFERENCE**

Pursuant to the authority vested by Section 9882 of the Business and Professions Code and Sections 44001.5, 44002, 44010.5, 44012 and 44013 of the Health and Safety Code, and to implement, interpret or make specific Sections 9884.8 and 9884.9 of the Business and Professions Code and Sections 44003, 44010, 44010.5, 44012, 44014, 44014.2, 44014.7, 44015, 44017, 44017.1, 44033, 44036, and 44037.1 of the Health and Safety Code, the Bureau is considering changes to Division 33 of Title 16 of the California Code of Regulations as follows:

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Bureau of Automotive Repair (Bureau), located within the Department of Consumer Affairs, is the state agency charged with the administration and implementation of the Smog Check Program (Program). The Program is designed to reduce emissions from mobile sources, such as passenger vehicles and trucks, by requiring that these vehicles meet specific in—use emissions standards as verified by periodic inspections. To ensure uniform and consistent vehicle testing, the Bureau licenses smog check stations and technicians and certifies inspection equipment.

Mobile source emissions reductions are achieved when high-emitting vehicles are identified and then repaired. If high-emitting vehicles are not identified and repaired, the effectiveness of the Program is greatly diminished.

#### I. Low-Pressure Fuel Evaporative System Testing

This component of the regulatory proposal is designed to implement a recommendation made by the

California Air Resources Board (ARB) that would add an additional procedure to the Smog Check test. In its November 29, 2005 report "Environmental Impacts of Implementing a Low Pressure Evaporative Test in the California Smog Check Program" ARB determined that adding a low–pressure fuel evaporative test to the existing Smog Check inspection would be a cost–effective emissions reduction strategy. Not only would the addition of this test help California meet its clean air goals and improve the health of its citizens, it would also satisfy legal commitments with the federal government and environmental groups that threaten to sue the state if such testing is not implemented.

The provisions of this proposed regulation require that, commencing November 1, 2007, affected vehicles must have a test performed of their vapor lines and fuel tanks for evaporative leaks as part of the Smog Check inspection. Harmful hydrocarbon emissions evaporate into the atmosphere as a result of malfunctions of the vehicle's fuel cap, fuel tank, vapor lines, fuel intake and charcoal canister. While evaporative emission controls are very effective in minimizing these emissions, these systems do deteriorate over time and leaks occur.

According to ARB, evaporative emissions will represent over one-half of the total hydrocarbon emissions from the 1976 to 1995 model year light-duty vehicles in 2010, more than the emissions that will be output from the vehicle's exhaust pipe. Specifically, ARB estimates that 140 tons per day (tpd) of hydrocarbons will evaporate from 1976 to 1995 model year vehicles in 2010. Of that, about 42 tpd results from deterioration of the fuel evaporative emission control systems. In its report, ARB estimates that the addition of the low-pressure fuel evaporative test will reduce hydrocarbon emissions by 14 tpd in 2010. This is one third of the 42 tons of evaporative emissions caused by deterioration of the fuel evaporative emission control systems. In addition, ARB estimates that the projected reductions would cost \$6,688 per ton in 2010, well under their threshold of \$14,300 established for other reduction programs, making this a cost-effective emission reduction.

The low–pressure fuel evaporative test will be added to the existing Smog Check inspection routine that requires 1976 and newer vehicles to pass a Smog Check once every two years in most areas of the state and whenever vehicle ownership is transferred statewide (in most instances). While the Smog Check inspection already includes an inspection of the fuel evaporative system for newer vehicles equipped with second generation on–board diagnostic systems (OBDII), most vehicles 1995 and older are not equipped with the OBDII technology. Thus, this test will be required primarily on 1976 to 1995 model–year vehicles.

In their report, ARB estimates that in 2010 there will be 5,783,020 vehicles in the affected model—year group

that will be subject to the proposed low–pressure fuel evaporative test. Since these older model year vehicles eventually wear out, it is anticipated that the fleet subject to this inspection in 2017 will diminish to 3,020,136 and the number of overall failures will drop, but testing is estimated to result in 7.3 tpd of hydrocarbon emission reductions.

In order to perform the low–pressure fuel evaporative test, almost 8,000 Smog Check inspection stations licensed by the Bureau of Automotive Repair (BAR) will need to purchase or lease specially designed, BAR–certified test equipment. If the low–pressure fuel evaporative test determines that the vehicle's fuel evaporative system has leaks, the vehicle would fail the test. Repairs and a retest would be necessary in order to pass the Smog Check test. As discussed in ARB's report, BAR's roadside testing in 2005 shows about 10.6% of the affected model–year vehicles failed the inspection.

### II. Initial Testing of Test-Only Directed Vehicles at Gold Shield Stations

This component of the regulatory proposal is sought to improve consumer convenience with the Smog Check program by authorizing specially licensed Smog Check stations, known as Gold Shield stations, to perform initial Smog Check inspections on "directed vehicles." "Directed vehicles" are vehicles currently preselected for testing at Smog Check stations licensed as Test–Only stations. Existing law supports this regulatory proposal (Health and Safety Code Section 44010.5 (b)(2)).

By expanding the testing of directed vehicles to the additional station type of Gold Shield stations, consumers are provided with more choices when seeking compliance with the Smog Check requirements. There will be more stations and more services to choose from when the consumer is directed for testing since there are approximately 500 Gold Shield stations and almost 1,800 Test-Only stations. Gold Shield stations offer more services than Test-Only stations as they can perform emission related repairs on vehicles that fail initial Smog Check inspections and are the only Smog Check station type that is contractually able to perform state funded repairs for the state's Consumer Assistance program. Pursuant to regulations, these stations must meet and maintain specific performance standards and are considered to be high-performing stations. As a result, consumers will benefit from increased services (virtually one-stop shopping) and greater emission reductions due to a higher level of state oversight associated with Gold Shield stations.

In addition to enhancing consumer convenience, this regulatory proposal enhances the existing business opportunities for entities that provide Smog Check services by providing a new incentive for existing Test—

Only and Test-and-Repair Smog Check businesses to participate in the Gold Shield program. This new opportunity is another reason why implementation of this proposal is sought at the same time as the low-pressure fuel evaporative testing (LPFET). It provides an incentive for continued participation in the Smog Check program by experienced entities that believe there is little business incentive for them to invest in necessary LPFET equipment in order to continue participating in the Smog Check program. Their concern is that the 1975 to 1995 model year vehicles subject to the LPFET test are the same model year group as the "directed vehicles". While some stations may elect to discontinue offering Smog Check tests because they elect to not invest in LPFET test equipment, others will take advantage of the new opportunity by becoming Gold Shield stations.

Further, data suggests that this change should have little, if any, impact on the emission reductions achieved as a result of the Smog Check program since Test–Only and Gold Shield stations perform similarly based on analysis of their failure rates.

#### I. Low-Pressure Fuel Evaporative System Testing

#### **Current Regulation:**

Section 3340.16 of Title 16 of the California Code of Regulations specifies the tools and equipment test—only stations located in basic or enhanced areas must have. Section 3340.16.5 prescribes tools and manuals that test—and—repair stations must have; test—and—repair stations must have equipment above and beyond what test—only stations have.

Section 3340.16.7 of Title 16 of the California Code of Regulations requires that smog check technicians perform a pressure check of the vehicle's gas cap. If the gas cap does not hold pressure for a specified amount of time, it fails the test, and the vehicle fails the inspection. Likewise, Section 3340.16.7 requires smog check technicians to perform a visual inspection of the fuel evaporation system to ensure that it is not tampered or otherwise defective. Section 3340.42 currently requires a visual inspection of the vehicle for liquid fuel leaks, but there is no current functional test of a vehicle's fuel evaporative system.

#### **Effect of Regulatory Action:**

This regulatory action:

1. Adds paragraph (10) to subsection (a) of Section 3340.16, which will require, effective November 1, 2007, all smog check test—only stations and, by reference in subsection (a) of section 3340.16.5, smog check test—and—repair stations to have a low—pressure fuel evaporative tester that has been certified by BAR.

- 2. Adds a new subsection (c) to Section 3340.42, which will establish the operative date of the low–pressure fuel evaporative systems test as November 1, 2007.
- 3. Adds paragraph (1) to the new subsection (c), which will specify the vehicles that are exempt from the low–pressure test and require the technician to enter "N" (Not Applicable) in the appropriate category when prompted by the Emissions Inspection System (EIS) when inspecting an exempt vehicle. The following vehicles will be exempted:
- A. 1996 and newer vehicles with series II On–Board Diagnostics (OBD II). These vehicles should have on board computers that monitor the efficacy of the fuel evaporation control system. If the evaporation control system is not operating properly, the vehicle's Malfunction Indicator Light (MIL) is illuminated. An illuminated MIL will cause a vehicle to fail a smog check inspection.
- B. Vehicles for which there are no fuel tank filler neck adapters.
- C. Vehicles powered by fuels other than gasoline. Alternatively fueled vehicles use fuels that are highly pressurized and therefore are not compatible with this type of testing.
- D. Vehicles not originally equipped and not required by state or federal law to be equipped, with a fuel evaporation control system. A vehicle without a fuel evaporation control system cannot be tested.
- E. Vehicles with two or more fully operational fuel tanks; and
- F. Vehicles with a fuel evaporative canister and fuel vapor hoses that are not readily accessible or would require the partial dismantling of the vehicle in order to gain access to them for testing. If a technician determines that the test is infeasible, the technician shall write on the vehicle inspection report the location of the canister. The infeasibility exemption is critical to prevent long inspection times and consumer inconvenience. Perhaps more important, however, is the concept that this exemption will serve as a buffer to restrain the potential increase in inspection costs. Without the exemption, a technician could conceivably spend hours disassembling a vehicle to gain access to the charcoal canister. The hours of disassembly and re-assembly could conceivably raise the inspection price to levels that would either lead to consumer complaints or program noncompliance, or both.

- 4. Adds paragraph (2) to the new subsection (c), which will specify the proper inspection and data entry procedures to be followed by technicians in conducting the low–pressure fuel evaporative test. In general, technicians have to seal off the charcoal canister and then, using the tester, pressurize the remainder of the system. Technicians shall follow the directions supplied by the tester's manufacturer for conducting a test with that equipment. If the tester detects a leak, the vehicle fails the inspection. At the conclusion of the test, the technician shall return the vehicle to its original pre–test configuration.
- 5. Adds paragraph (3) to the new subsection (c), which will provide that performance of the low–pressure fuel evaporative test does not excuse the technician from performing a visual inspection of the fuel evaporative control system or a liquid fuel leak inspection.
- 6. The current subsections (c), (d), (e) and (f) of Section 3340.42 will be renumbered as (d), (e), (f) and (g), respectively, to conform to the addition of the new subsection (c).
- 7. Several nonsubstantive grammatical and editorial changes are also made throughout Section 3340.42.

### II. Initial Testing of Test-Only Directed Vehicles at Gold Shield Stations

#### **Current Regulation:**

Section 3392.2 establishes a description of the responsibilities of a certified Gold Shield station, as specified.

#### **Effect of Regulatory Action:**

This regulatory action will amend Section 3392.2 to provide for the initial testing of Test–Only directed vehicles as follows:

- Adds a new paragraph (3) to subsection (a) of Section 3392.2, which will permit Gold Shield stations equipped with a complete BAR-97 EIS, regardless of their program area location, to perform initial Smog Check tests/inspection and certifications of vehicles directed to Test-Only stations.
- 2. Several nonsubstantive grammatical and editorial changes are also made throughout Section 3392.2.

#### FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None.

### Nondiscretionary Costs/Savings to Local Agencies:

None.

#### **Local Mandate:**

None

# Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement:

None.

#### **Business Impact:**

#### I. Low-Pressure Fuel Evaporative System Testing

The Bureau has made an initial determination that the amendment of these regulations may have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The following types of businesses would be affected:

- 1. Smog Check Test-and-Repair Stations
- 2. Smog Check Test–Only Stations

The following reporting, recordkeeping or other compliance requirements are projected to result from the proposed action:

- 1. Smog Check stations will be required to purchase, maintain and use a low–pressure fuel evaporation tester (LPFET) certified by the Bureau.
- 2. Smog Check stations will be required to report/down load test results from the LPFET to the Bureau periodically.
- 3. Smog Technicians will need training to use the equipment and properly perform the test.

The Bureau has considered proposed alternatives that would lessen any adverse economic impact on business and invites you to submit such proposals. Submissions may include the following considerations:

- 1. The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to businesses.
- 2. Consolidation or simplification of compliance and reporting requirements for businesses.
- 3. The use of performance standards rather than prescriptive standards.
- 4. Exemption or partial exemption from the regulatory, requirements for businesses.

The rulemaking file includes the facts, evidence, documents, testimony and/or other evidence that supports this determination.

### II. Initial Testing of Test-Only Directed Vehicles at Gold Shield Stations

The Bureau has made an initial determination that the amendment of these regulations may have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The following types of businesses would be affected:

- 1. Smog Check Test-and-Repair Stations
- 2. Smog Check Test-Only Stations

The following reporting, recordkeeping or other compliance requirements are projected to result from the proposed action:

None.

The Bureau has not considered proposed alternatives that would lessen any adverse economic impact on business and invites you to submit such proposals. Submissions may include the following considerations:

- 1. The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to businesses.
- 2. Consolidation or simplification of compliance and reporting requirements for businesses.
- 3. The use of performance standards rather than prescriptive standards.
- 4. Exemption or partial exemption from the regulatory requirements for businesses.

The rulemaking file includes the facts, evidence, documents, testimony and/or other evidence that supports this determination.

#### **Impact on Jobs/New Businesses:**

#### I. Low-Pressure Fuel Evaporative System Testing

The Bureau of Automotive Repair has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

### II. Initial Testing of Test-Only Directed Vehicles at Gold Shield Stations

The Bureau of Automotive Repair has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

### <u>Cost Impact on Representative Private Person or Business:</u>

The cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action and that are known to the Bureau are:

#### I. Low-Pressure Fuel Evaporative System Testing

Smog Check Stations

This regulation will require Smog Check stations to purchase or lease a BAR-certified LPFET. The manufacturers of the testing devices estimate that the average cost of the equipment will be \$2,750. BAR estimates that the average annual maintenance cost will be \$100.

In order to cover the cost of the LPET and the time to perform the test, it is anticipated that Smog Check stations will raise the Smog Check inspection costs. In their report, ARB estimates an initial average inspection fee increase of \$7.50 per test. The \$7.50 estimate fee increase was derived from the time to perform the inspection, plus amortized equipment costs (over 5 years). The increased inspection fee will likely be added to the inspection of affected model year vehicles, estimated to be 5,783,020 in 2010 and 3,020,136 in 2017.

Stations will also derive revenue though increased repairs necessary to correct failing vehicles. In their report, ARB estimates an average repair cost of \$161 and reports a 10.6% failure rate based on BAR's 2005 study of vehicles tested during a roadside pull—over inspection. The average repair, cost is based on repair studies conducted by ARB and BAR jointly in 2002 and 2005. The majority of the estimated repair cost is for labor to replace damaged, or reconnect disconnected, vapor lines, to repair fuel tanks, to replace seals associated with the fuel level sending unit and to correct problems associated with the fuel filler neck. The parts costs were found to be relatively minor. The average labor rate of \$74 was used to arrive at the estimated average repair cost of \$161.

#### Consumer Impact

This regulation will require owners of 1976 to 1995 model year vehicles to undergo an additional test in order to pass a Smog Check test. It is estimated that the subject fleet will be 5,783,020 in 2010 and 3,020,136 in 2017.

Consumers may be required to pay increased inspection fees due to the implementation of this regulation. Stations may increase the inspection price by an estimated \$7.50 to offset the expenditures for the testers, the nitrogen supply, and the time to perform this additional test. Thus, the average inspection cost could increase to \$56.00 from \$48.50. This is a biennial or change–of–ownership cost.

In addition to the increased inspection cost, consumers with failing vehicles will be required to obtain repairs in order to pass the Smog Check inspection. It is estimated that 10.6% of the vehicles from model years 1976 to 1995 that are subjected to the new test procedure will fail. In its report, ARB estimates that repair costs associated with the test will average approximately \$161, with most involving the replacement of hoses and tubing.

For low-income consumers and consumers directed to test-only stations, BAR has a program in place to help mitigate the cost of emissions related repairs needed to bring a vehicle into compliance with the requirements of the Smog Check Program. The Consumer Assistance Program (CAP) provides up to \$500 in repair

assistance to qualifying motorists. The CAP program assisted nearly 40,000 motorists with repairs in 2005–2006.

Consumers will benefit from improved health and reduced medical costs from better air quality. Additional benefits include improved vehicle safety from reductions in fuel leakage resulting in estimated fuel savings of up to \$4.5 million (annually), and improved mobility and economic benefits from continued federal transportation funding.

### II. Initial Testing of Test-Only Directed Vehicles at Gold Shield Stations

Smog Check Stations

Authorizing Gold Shield stations to perform initial inspections of directed vehicles would potentially increase the volume of inspections performed at Gold Shield stations. An increase in inspections will result in an increase of revenue. In addition, Gold Shield stations may realize additional repair revenue from directed vehicles that fail since they afford consumers the convenience of one—stop shopping. The number of consumers that will seek initial tests at Gold Shield stations versus Test—Only stations is unknown.

Test-Only stations may realize a drop in initial and re-test inspections and income associated with performing such tests due to competition from the Gold Shield stations.

Test-and-Repair stations may anticipate fewer repairs. Currently, Test-and-Repair stations and Gold Shield stations realize repair income from vehicles that fail at Test-Only stations. The number of consumers that will seek repairs at Gold Shield stations versus Test-and-Repair stations is unknown.

The Executive Summary Report for Calendar Year 2005 shows that inspection costs average about \$49 dollars for all station types. The average repair cost for Gold Shield stations is \$201 and for Test–and–Repair stations is \$164.

While this proposal may affect the number of stations licensed by license type, the total number of licensed stations is not expected to change. Smog Check technicians employed at Smog Check stations that leave the program will need to seek new employers. However, since technicians are licensed to perform both tests and repairs, the total number of technicians among all station types is not expected to change significantly.

### Consumer Impact

By expanding the testing of directed vehicles to the additional station type of Gold Shield stations, consumers will be provided with more choices when seeking compliance with the Smog Check requirements. There will be more stations and more services to choose from when the consumer is directed for testing since there are approximately 500 Gold Shield stations and almost

1,800 Test–Only stations. Gold Shield stations offer more services than Test–Only stations as they can perform emission related repairs on vehicles that fail initial Smog Check inspections and are the only Smog Check station type that is contractually able to perform state funded repairs for the state's Consumer Assistance program. Pursuant to regulations, these stations must meet and maintain specific performance standards and are considered to be high–performing stations. As a result, consumers will benefit from increased services (virtually one–stop shopping) and greater emission reductions due to a higher level of state oversight associated with Gold Shield stations.

### **Effect on Housing Costs:**

None.

#### EFFECT ON SMALL BUSINESS

The Bureau has determined that the proposed regulations would affect small businesses.

#### CONSIDERATION OF ALTERNATIVES

The Bureau must determine that no reasonable alternative to the regulations would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments or ally or in writing relevant to the above determinations at the above—mentioned hearing.

### INITIAL STATEMENT OF REASONS AND INFORMATION

The Bureau has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

### TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and of the statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Bureau of Automotive Repair at 10240 Systems Parkway, Sacramento, CA 95827.

### AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND THE RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file that is

available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

#### CONTACT PERSON

Inquiries or comments concerning the proposed administrative action may be addressed to:

James Allen Bureau of Automotive Repair 10240 Systems Parkway Sacramento, CA 95827 Telephone: (916) 255–3460 Fax No.: (916) 255–1369 E-mail: jim\_allen@dca.ca.gov

The backup contact person is:

Kathy Runkle Bureau of Automotive Repair 10240 Systems Parkway Sacramento, CA 95827 Telephone: (916) 255–3460 Fax No.: (916) 255–1369

E-mail: kathy\_runkle@dca.ca.gov

#### **WEBSITE ACCESS**

Materials regarding this proposal can also be found on the Bureau's website at <a href="https://www.smogcheck.ca.gov">www.smogcheck.ca.gov</a>.

### TITLE 18. STATE BOARD OF EQUALIZATION

### NOTICE IS HEREBY GIVEN

The State Board of Equalization, pursuant to the authority vested in it by section 15606(a) of the Government Code, proposes Regulation 1671.1, Discounts, Coupons, Rebates, and Other Incentives, in Title 18, Division 2, Chapter 4, of the California Code of Regulations, relating to sales and use tax. A public hearing on the proposed regulations will be held in Room 121, 450 N Street, Sacramento, at 1:30 p.m., or as soon thereafter as the matter may be heard, on March 20, 2007. At the hearing, any person interested may present statements or arguments orally or in writing relevant to the proposed regulatory action. The Board will consider written statements or arguments if received by March 20, 2007.

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Under the Sales and Use Tax Law, the measure of tax for the sales tax (gross receipts) and the use tax (sales price) includes the total amount received with respect to the sale, with no deduction for the cost of materials, service, or expense of the retailer passed on to the purchaser, unless there is a specific statutory exclusion. Pursuant to Revenue and Taxation Code (RTC) sections 6011(b)(2) and 6012(b)(3), respectively, sales price and gross receipts also include any amount for which the seller gives a credit to the purchaser. However, pursuant to RTC sections 6011(c)(1) and 6012(c)(1), respectively, sales price and gross receipts do not include cash discounts allowed and taken on sales. The measure of tax is not limited to amounts collected from the customer. For example, in the case of rebates tied to specific price reductions at the time of retail sale, the gross receipts received by a retailer are regarded as the amount charged the customer, plus the amount received pursuant to the relevant rebate agreement. Retailers who receive a certain reimbursement from manufacturers through coupon rebates or through rebate revenues from a third party in exchange for a required reduction in the selling price of a product (e.g., under certain manufacturer's "buy-down" programs) are liable for tax on the amount received from the third party. In these transactions; the retailer receives a portion of its gross receipts (or sales price) from the customer in the form of a reduced payment for tangible personal property, and another portion of its gross receipts (or sales price) from the third party upon redemption of some type of indicia or upon fulfillment of the conditions of the third-party agree-

Regulation 1671.1, Discounts, Coupons, Rebates, and Other Incentives, is hereby proposed to interpret, implement and make specific Revenue and Taxation Code sections 6011 and 6012. The Board is proposing the regulation to clarify: (1) the general application of tax to transactions involving discounts, coupons, rebates, and other incentives; and (2) the specific application of tax to revenue from discounts, coupons, rebates, and other incentives that retailers receive from persons other than purchasers.

### COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The State Board of Equalization has determined that the proposed amendments do not impose a mandate on local agencies or school districts. Further, the Board has determined that the amendments will result in no direct or indirect cost or savings to any State agency, any costs to local agencies or school districts that are required to be reimbursed under Part 7 (commencing with section 17500) of Division 4 of Title 2 of the Government Code or other non–discretionary costs or savings imposed on local agencies, or cost or savings in federal funding to the State of California.

### **EFFECT ON BUSINESS**

Pursuant to Government Code section 11346.5(a)(7), the State Board of Equalization made an initial determination that the adoption of Regulation 1671.1 will have no significant statewide adverse economic impact directly affecting business.

The adoption of the proposed regulation will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create or expand business in the State of California.

The regulation as proposed will not be detrimental to California businesses in competing with businesses in other states.

The proposed regulation may affect small business.

### COST IMPACT ON PRIVATE PERSON OR BUSINESSES

The Board is not aware of my cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

### SIGNIFICANT EFFECT ON HOUSING COSTS

No significant effect.

#### FEDERAL REGULATIONS

Regulation 1671.1 as proposed has no comparable federal regulations.

#### **AUTHORITY**

Section 7051, Revenue and Taxation Code.

#### **REFERENCE**

Sections 6011 and 6012, Revenue and Taxation Code.

#### **CONTACT**

Questions regarding the substance of the proposed regulation should be directed to Mr. Randy Ferris, Tax Counsel IV, telephone (916) 322–0437, e-mail

<u>randy.ferris@boe.ca.gov</u>, or by mail at State Board of Equalization, Attn: Randy Ferris, MIC:82, P.O. Box 942879, Sacramento, CA 94279–0082.

Written comments for the Board's consideration, notice of intent to present testimony or witnesses at the public hearing, and inquiries concerning the proposed administrative action should be directed to Diane Olson, Regulations Coordinator, telephone (916) 322–9569, fax (916) 324–3984, e-mail diane.olson@boe.ca.gov, or by mail at State Board of Equalization, Attn: Diane Olson, MIC:80, P.O. Box 942879, Sacramento, CA 94279–0080.

#### ALTERNATIVES CONSIDERED

The Board must determine that no reasonable alternative considered by it or that has been otherwise identified and brought to its attention would be more effective in carrying out the purpose for which this action is proposed, or be as effective and less burdensome to affected private persons than the proposed action.

### AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board has prepared an initial statement of reasons and an underscored version (express terms) of the proposed regulation. Both of these documents and all information on which the proposal is based are available to the public upon request. The Rulemaking file is available for public inspection at 450 N Street, Sacramento, California. The express terms of the proposed regulation are available on the Internet at the Board's Web site <a href="http://www.boe.ca.gov">http://www.boe.ca.gov</a>.

### AVAILABILITY OF FINAL STATEMENT OF REASONS

The final statement of reasons will be made available on the Internet at the Board's Web site following its public hearing of the proposed regulation. It is also available for your inspection at 450 N Street, Sacramento, California.

### ADDITIONAL COMMENTS

Following the hearing, the State Board of Equalization may, in accordance with the law, adopt the proposed regulation if the text remains substantially the same as described in the text originally made available to the public. If the State Board of Equalization makes modifications which are substantially related to the originally proposed text, the Board will make the modi-

fied text, with the changes clearly indicated, available to the public for fifteen days before adoption of the regulation. The text of any modified regulation will be mailed to those interested parties who commented on the proposed regulatory action orally or in writing or who asked to be informed of such changes. The modified regulation will be available to the public from Ms. Olson. The State Board of Equalization will consider written comments on the modified regulation for fifteen days after the date on which the modified regulation is made available to the public.

### TITLE 22. EMERGENCY MEDICAL SERVICES AUTHORITY

[Notice Published January 19, 2007]

#### NOTICE OF PROPOSED RULEMAKING

The Emergency Medical Services Authority (EMS Authority) proposes to adopt the proposed EMT–II regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

#### PUBLIC HEARING

The EMS Authority will hold a public hearing to permit all interested parties the opportunity to present statements, arguments, written materials, or contentions relevant to the proposed action described in the informative digest. The public hearing will be held on:

Date: March 20, 2007

Time: 12:30 p.m. to 3:00 p.m.

Location: EMS Authority, 1930 9th Street,

Sacramento, CA 95814

The facility to be used for the public hearing is accessible to persons with mobility impairments. Persons with sight or hearing impairments are asked to write Sean Trask at the address above or call Mr. Trask at (916) 322–4336, extension 408 to make special arrangements, if necessary.

#### WRITTEN COMMENT PERIOD

Interested persons are invited to submit written comments on the proposed regulatory action to the EMS Authority. The written comment period end closes at 5:00 p.m. on March 20, 2007. The EMS Authority will consider only comments received at the EMS Authority office by that time. Submit comments to:

Sean Trask, Manager, Personnel Standards Unit EMS Authority

1930 9<sup>th</sup> Street

Sacramento, CA 95814

Telephone: (916) 322-4336, extension 408

Fax: (916) 324-2875

E-mail: sean.trask@emsa.ca.gov

#### **AUTHORITY AND REFERENCE**

The Health and Safety Code, Section 1797.107 authorizes the EMS Authority to adopt the proposed regulations, which would implement, interpret, or make specific Sections 1797.2, 1797.53, 1797.171, 1797.176, 1797.178, 1797.206, 1797.210, 1797.218, 1797.220, 1798.2, 1798.3, and 1798.105 of the Health and Safety Code.

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Current law authorizes the EMS Authority to adopt minimum standards for the training and scope of practice for EMT–IIs. Current law also authorizes the EMS Authority to adopt minimum standards for the certification and recertification of EMT–IIs.

The EMS Authority proposes to amend several sections of Chapter 3 of Division 9, of Title 22. This Chapter of Regulations was last revised in 1988 and there have been numerous advances and changes in prehospital training, certification, scope of practice, and medical control pertaining to EMT–IIs both nationally and in California. These amendments are intended to:

- 1. Update, and clarify numerous elements of the EMT–II Chapter of Regulations pertaining to EMT–II training, certification, medical control, and scope of practice requirements.
- 2. Make the training, certification, and medical control requirements consistent with the similar requirements contained in the EMT–I and Paramedic Regulations.
- 3. Offer a feasible and appropriate limited advanced life support alternative to paramedic services for those communities that have difficulty in implementing and sustaining paramedic services.

### DISCLOSURES REGARDING THE PROPOSED ACTION

The EMS Authority has made the following determinations:

- Mandate on local agencies and school districts: None.
- Cost or savings to any state agency: This would only impact those statewide public safety agencies

(CHP, CDF, DPR) that may wish to implement EMT–II services. Costs will vary throughout the state and would include training, equipment, supplies, continuous quality improvement measures and in some cases certification fees. The standards proposed in this regulation revision are optional and not mandatory.

- Costs to any local agency or school district which must be reimbursed in accordance with the Government Code Sections 17500 through 17630: None.
- Other nondiscretionary cost or savings imposed on local agencies: This would only impact those local agencies that may wish to implement EMT-II services. Costs will vary throughout the state and would include training, equipment, supplies, continuous quality improvement measures and in some cases certification fees. The standards proposed in this Regulation revision are optional and not mandatory.
- Cost or savings in federal funding to the state: None.
- Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.
- Cost impacts on a representative private person or business: This would only impact those private businesses, such as private ambulance companies, that may wish to implement EMT-II services. Costs will vary throughout the state and would include training, equipment, supplies, continuous quality improvement measures and in some cases certification fees. The standards proposed in this Regulation revision are optional and not mandatory.
- Adoption of these regulations will not:
  - (1) create or eliminate jobs within California;
  - (2) create new businesses or eliminate existing businesses with California; or
  - (3) affect the expansion of businesses currently doing business within California.
- Significant effect on housing costs: None.

### SMALL BUSINESS DETERMINATION

The EMS Authority has determined that the proposed regulation may affect a small ambulance company that wishes to increase the level of service from basic life support to limited advanced life support with EMT–II services. Costs will vary throughout the state and would

include training, equipment, supplies, continuous quality improvement measures and in some cases certification fees. The small ambulance provider will also need to seek approval from their local EMS agency to become an EMT–II service provider which may involve a contract and performance requirements as specified by the local EMS agency. The standards proposed in this Regulation revision are optional and not mandatory.

#### CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the EMS Authority must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the EMS Authority would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The EMS Authority invites interested parties to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

#### CONTACT PERSON

### Primary Contact Person:

Sean Trask Manager, Personnel Standards Unit EMS Authority 1930 9<sup>th</sup> Street Sacramento, CA 95814 e-mail: sean.trask@emsa.ca.gov

Phone: (916) 322–4336, extension 408

Fax: (916) 324–2875

#### Alternate Contact Person:

Nancy Steiner, Chief EMS Personnel Division EMS Authority 1930 9<sup>th</sup> Street Sacramento, CA 95814

Email: nancy.steiner@emsa.ca.gov Phone: (916) 322–4336, extension 429

Fax: (916)324-2875

Please direct requests for copies of the proposed text of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to Mr. Trask at the above address.

## AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The EMS Authority will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. The rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons. Copies may be obtained by contacting Mr. Trask at the address above.

### AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public hearing and after considering all timely and relevant comments received, the Commission on Emergency Medical Services may approve for adoption and the EMS Authority may adopt the proposed regulation substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the EMS Authority will make the modified text, with the changes clearly indicated, available to the public for at least 15—days before adoption of the regulations as revised. Please send requests for copies of any modified regulations to the attention of Sean Trask at the address indicated above. The EMS Authority will accept written comments on the modified regulations for 15—days after the date on which they are made available.

### AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Sean Trask at the above address.

### AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout format, can be accessed through the EMS Authority's website at <a href="https://www.emsa.ca.gov">www.emsa.ca.gov</a>.

### SUMMARY OF REGULATORY ACTIONS

### REGULATIONS FILED WITH SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA, 95814, (916) 653–7715. Please have the agency name and the date filed (see below) when making a request.

### AIR RESOURCES BOARD

Identification of Environmental Tobacco Smoke

This amendment to 17 CCR section 93000 adds Environmental Tobacco Smoke ("ETS") to the list of substances identified as "toxic air contaminants," as defined in Health and Safety Code section 39655. The threshold exposure level is not identified, meaning there is no level at which exposure to ETS will not have any significant adverse health effects.

Title 17 California Code of Regulations AMEND: 93000 Filed 01/09/07 Effective 02/08/07

Agency Contact: Alexa Malik (916) 322–4011

### BOARD OF BARBERING AND COSMETOLOGY Schedule of Administrative Fines

This regulatory action amends the schedule of administrative fines that the Board may impose.

Title 16 California Code of Regulations AMEND: 974 Filed 01/10/07 Effective 02/09/07

Agency Contact: Paul Cobb (916) 445–8893

### **BOARD OF EQUALIZATION**

Vehicles, Vessels and Aircrafts

This change without regulatory effect implements the California Domestic Partner Rights and Responsibilities Act of 2003 (Stats. 2003, c. 421 (A.B. 205) operative January 1, 2005) dealing with sales tax and use tax of vehicles, vessels, and aircraft.

Title 18

California Code of Regulations

AMEND: 1610 Filed 01/03/07

Agency Contact: Diane G. Olson (916) 322–9569

### **BOARD OF EQUALIZATION**

Innocent Spouse Relief from Liability

This change without regulatory effect implements the California Domestic Partner Rights and Responsibilities Act of 2003 (Stats. 2003, c. 421 (A.B. 205) operative January 1, 2005) dealing with innocent spouse relief from tax liability.

Title 18

California Code of Regulations

AMEND: 1705.1 Filed 01/03/07

Agency Contact: Diane G. Olson (916) 322–9569

### BOARD OF GOVERNORS, CALIFORNIA COMMUNITY COLLEGES

Minimum requirements for the Associate Degree

The Board of Governors, California Community Colleges (Board), is amending section 55806, title 5, California Code of Regulations. Pursuant to Education Code Section 70901.5, on November 29, 2006, the Board filed the changes with the Secretary of State's Office. Further, on January 10, 2007, the Office of Administrative Law with the express instruction by the Board filed an amended filing with the Secretary of State's Office.

Title 5

California Code of Regulations

AMEND: 55806 Filed 01/10/07 Effective 02/09/07

Agency Contact: Ralph D. Black (916) 327–5692

### DEPARTMENT OF COMMUNITY SERVICES AND DEVELOPMENT

Conflict of Interest Code

The Department of Community Services and Development is amending their conflict of interest code (22 CCR 101115). The Fair Political Practices Commission approved the changes for filing on October 27, 2006.

Title 22

California Code of Regulations ADOPT: 101115 AMEND: 101115

Filed 01/03/07 Effective 02/02/07

Agency Contact: Donna Fairchild (916) 327–6333

### DEPARTMENT OF FOOD AND AGRICULTURE Gypsy Moth eradication Area

This regulatory action adds Santa Barbara County and Orange County to the list of counties in 3 CCR 3591.6(a) proclaimed to be eradication areas for gypsy moth (Lymantria dispar). It provides authority for the state to perform control and eradication activities against this seriously destructive pest which devours fruit, forest and shade trees. Making this regulation permanent is necessary to provide ongoing protection and prevent the spread of this pest both within these two counties and beyond their borders. The Certification of Compliance was due 12–10–06 and was timely submitted to OAL.

Title 3

California Code of Regulations

AMEND: 3591.6(a) Filed 01/08/07 Effective 01/08/07

Agency Contact: Stephen Brown (916) 654–1017

### DEPARTMENT OF FOOD AND AGRICULTURE Bactrocera Zonata Interior Quarantine

This is the certificate of compliance to permanently remove restrictions on host crops and possible carriers of the fruit fly in 106 square miles in the Fresno area of Fresno and Madera counties.

Title 3

California Code of Regulations

AMEND: 3424(b) Filed 01/03/07 Effective 01/03/07

Agency Contact: Stephen Brown (916) 654–1017

### DEPARTMENT OF FOOD AND AGRICULTURE Oriental Fruit Fly Eradication Area

This certificate of compliance makes permanent the emergency regulations (OAL file no. 06–0727–03E) that added the county of Santa Barbara to the list of counties already proclaimed to be eradication areas with respect to the Oriental fruit fly, "Bactrocera dorsalis."

Title 3

California Code of Regulations

AMEND: 3591.2(a) Filed 01/08/07 Effective 01/08/07

Agency Contact: Stephen Brown (916) 654–1017

### DEPARTMENT OF FOOD AND AGRICULTURE

Diaprepes Root Weevil Interior Quarantine

This regulatory action added an approximately two (2) square mile area around the Carmel Valley area of

### CALIFORNIA REGULATORY NOTICE REGISTER 2006, VOLUME NO. 3-Z

San Diego County to areas already under quarantine in the county for the Diaprepes abbreviatus (West Indian sugarcane root borer or Diaprepes root weevil). (Prior emergency file number: 06-0811-02 E). Parts of Los Angeles and Orange counties, as well as other parts of San Diego, are already established as quarantine areas for this purpose.

Title 3

California Code of Regulations

AMEND: 3433(b) Filed 01/09/07 Effective 01/09/07

Agency Contact: Stephen Brown (916) 654–1017

### DEPARTMENT OF FOOD AND AGRICULTURE Diaprepes Root Weevil Interior Quarantine

Department of Food and Agriculture certified that it complied with the provisions of the Administrative Procedures Act related to the expansion of the quarantine area for the diaprepes abbreviatus (Root Weevil) in La Jolla, California.

Title 3

California Code of Regulations

AMEND: 3433(b) Filed 01/05/07 Effective 01/05/07

Agency Contact: Stephen Brown (916) 654–1017

### DEPARTMENT OF FOOD AND AGRICULTURE Mediterranean Fruit Fly Interior Quarantine

This is the Certificate of Compliance for two emergency regulations that together removed the fruit fly quarantine from Santa Clara, San Bernardino and part of Los Angeles Counties.

Title 3

California Code of Regulations

AMEND: 3406(b) Filed 01/05/07 Effective 01/05/07

Agency Contact: Stephen Brown (916) 654–1017

### DEPARTMENT OF HEALTH SERVICES Reporting HIV Infection by Name

This emergency action updates the Department's regulations that specify the HIV test information that must be reported by a health care provider to the local health officer, the reporting forms, and the manner of transmitting a report to conform to the new requirement to include reporting of the patient's name in accordance with Health and Safety Code section 121022.

Title 17

California Code of Regulations

ADOPT: 2641.56, 2641.57 AMEND: 2641.30, 2641.45, 2641.55, 2643.5, 2643.10, 2643.15 RE-

PEAL: 2641.75, 2641.77

Filed 01/08/07 Effective 01/08/07 Agency Contact:

> Barbara S. Gallaway (916)657 - 3197

### DEPARTMENT OF INSURANCE

Insurance Rate Review

Provides that insurers may not use a rate that results in an overall rate of return in excess of 11% and establishes procedures by which the DOI may compel insurers to modify rates.

Title 10

California Code of Regulations

ADOPT: 2642.4, 2643.8, 2644.24. 2644.25, 2644.26, 2644.27, 2644.50 AMEND: 2642.5, 2642.6, 2642.7, 2643.6, 2644.2, 2644.3, 2644.4, 2644.5, 2644.6, 2644.7, 2644.8, 2644.10, 2644.12, 2644.15, 2644.16, 2644.17, 2644.18, 2644.19,

2644.20, 2644.21, 2644.23

Filed 01/03/07 Effective 04/03/07

Agency Contact:

Cathleen S. Chapman (415) 538-4458

### DEPARTMENT OF INSURANCE

Worker's Comp Insurance Fraud

This action is the Certificate of Compliance filing making permanent the prior emergency readoption of amendments to the Workers' Compensation Anti-Fraud Program regulations. The amendments eliminate the required 5% funding reserve, change semi-annual funding to annual funding, and eliminate one of three accounting methods used to calculate indirect costs in a grant application. The prior emergency regulations made permanent here are OAL file numbers 06-0321-03E and 06-0724-01EE.

California Code of Regulations

AMEND: 2698.52(c), 2698.53(b), 2698.56(c)

Filed 01/08/07 Effective 01/08/07

Agency Contact: Debra Chaum (415) 538–4115

DEPARTMENT OF PESTICIDE REGULATION

### Pesticide Use Report for School Sites

This nonsubstantive rulemaking changes the revision date on the form schools use to report pest control businesses. A past effective date is deleted. The changes to the form are to change "of" to be the grammatically correct "or," and to insert the appropriate abbreviation, "CDS" (the correct acronym for "County/District/School") instead of "CDC."

Title 3

California Code of Regulations

AMEND: 6625 Filed 01/05/07 Effective 01/05/07 Agency Contact:

Linda Irokawa–Otani (916) 445–3991

### DEPARTMENT OF WATER RESOURCES Yuba Feather Flood Protection Program

This emergency action amends and adopts regulations of the Yuba Feather Flood Protection Program of the Safe Drinking Water, Clean Water, Watershed Protection, and Flood Protection Act of 2000, expanding the activities that may be funded through grants by adding plan implementation in addition to the currently authorized activities of studying feasibility and preparing designs.

Title 23

California Code of Regulations

ADOPT: 499.4.1.1, 499.4.1.2, 499.4.2, 499.6.3 AMEND: 499.1, 499.2, 499.3, 499.4, 499.4.1, 499.5, 499.6, 499.6.1, 499.7, 499.8 REPEAL:

499.6.2 Filed 01/05/07 Effective 01/05/07 Agency Contact:

Katherine A. Spanos (916) 653–6295

### FAIR POLITICAL PRACTICES COMMISSION Required Committee Bank Accounts

This rulemaking adopts Title 2, section 18534 which deals with required committee bank accounts. These regulations detail two required bank accounts – "all purpose" and "restricted use" — that committees must have. The regulations also explain for what purposes each account should be used.

Title 2 California Code of Regulations ADOPT: 18534 Filed 01/09/07 Effective 02/08/07 Agency Contact:

Lawrence T. Woodlock (916) 322–5660

### FAIR POLITICAL PRACTICES COMMISSION Public Generally

This rulemaking amends Title 2, section 18707.1 which deals with the material financial effect of a gov-

ernmental decision on a public official's economic interest. This regulation explains in more detail the financial effect on a public official when the governmental decision deals with real property and also defines residential property as applicable in this regulation.

Title 2

California Code of Regulations

AMEND: 18707.1 Filed 01/09/07 Effective 02/08/07 Agency Contact:

William J. Lenkeit (916) 322–5660

### FAIR POLITICAL PRACTICES COMMISSION

Reporting of Specialized Contr. & Expenditures by Political Party Comm.

This rulemaking adopts Title 2, section 18530.3 which deals with required disclosures by political party committees. This regulation details the disclosures required of any contributions or expenditures related to the support or defeat of any state or local candidate or ballot measure.

Title 2

California Code of Regulations

ADOPT: 18530.3 Filed 01/09/07 Effective 02/08/07 Agency Contact:

Lawrence T. Woodlock (916) 322–5660

#### OFFICE OF REAL ESTATE APPRAISERS

Amendment to Regulations

This is the Certificate of Compliance for an emergency regulation which modified the schedule by which applicants for real estate appraiser licenses must demonstrate completion of education, experience, and examination requirements.

Title 10

California Code of Regulations

AMEND: 3528 Filed 01/10/07 Effective 01/10/07 Agency Contact:

Anthony F. Majewski

(916) 440–7878

### STATE ALLOCATION BOARD

Leroy F. Greene School Facilities Act of 1998 — Repayment Schedules

In this emergency regulatory action relating to the Leroy F. Greene School Facilities Act of 1998, the State Allocation Board implements Education Code section 17076.10(c) by providing for repayment schedules of up to five years for school districts which have been audited and owe repayment of State funds and which are in severe financial hardship situations.

Title 2

California Code of Regulations

ADOPT: 1859.106.1 AMEND: 1859.106

Filed 01/08/07 Effective 01/08/07

Agency Contact: Lisa Jones (916) 322–1043

### STATE WATER RESOURCES CONTROL BOARD Establish TMDLs for Dissolved Oxygen and Water Temperature in the Shasta River Watershed

In this State Water Resources Control Board filing, the North Coast Regional Water Quality Control Board amends the Water Quality Control Plan for the North Coast Region to establish Total Maximum Daily Loads (TMDLs) for dissolved oxygen and water temperature for the Shasta River Watershed.

Title 23

California Code of Regulations

ADOPT: 3908 Filed 01/09/07 Effective Agency Contact:

Michael Buckman

(916) 341–5479

### STATE WATER RESOURCES CONTROL BOARD Addition of Unidentified Water Bodies to BU Tables

This regulatory action includes both regulatory and non–regulatory changes. The regulatory changes consist of updating the beneficial use (BU) tables in one chapter of the San Diego Basin Plan. This includes naming and assigning BUs to water bodies that were left off the BU tables when the 1975 Basin Plan was revised in 1995 and to make corrections to the water quality objective tables. The non–regulatory changes consist of updating definitions and program descriptions to make them consistent with statutes and regulations adopted since 1994.

Title 23

California Code ADOPT: 3989.4 Filed 01/04/07 Effective

Agency Contact: Nirmal Sandhar (916) 341–5571

# CCR CHANGES FILED WITH THE SECRETARY OF STATE WITHIN AUGUST 09, 2006 TO JANUARY 10, 2007

All regulatory actions filed by OAL during this period are listed below by California Code of Regulations titles, then by date filed with the Secretary of State, with

the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

#### Title 2

01/09/07	ADOPT: 18530.3				
	AMEND: 18707.1				
01/09/07					
	ADOPT: 1859.106.1 AMEND: 1859.106				
12/22/06	AMEND: 21906				
12/18/06	AMEND: 18312, 18316.5, 18326,				
	18401, 18521, 18537.1, 18704.5,				
	18705.5, 18730, 18746.2				
12/18/06	AMEND: 18545				
12/18/06	ADOPT: 18421.3				
12/18/06	AMEND: 18703.4, 18730, 18940.2,				
	18942.1, 18943				
12/18/06					
12/10/00	1859.78.5				
12/14/06					
12/14/06					
12/13/00	, , , , , , , , , , , , , , , , , , , ,				
	20108.15, 20108.18, 20108.20, 20108.25				
	20108.25, 20108.30, 20108.35,				
	20108.36, 20108.37, 20108.38,				
	20108.40, 20108.45, 20108.50,				
	20108.51, 20108.55, 20108.60,				
44 10 - 10 -	20108.65, 20108.70, 20108.75, 20108.80				
	AMEND: 18216, 18421.1				
	AMEND: 1859.73.2				
10/31/06	· · · · · · · · · · · · · · · · · · ·				
	559.504, 559.505, 559.507, 559.508,				
	559.509, 559.510, 559.511, 559.512,				
	559.513, 559.515, 559.516, 559.517				
10/12/06					
	AMEND: 18754				
	AMEND: 21904, 21905				
09/05/06	6 AMEND: 1859.2, 1859.76, 1859.83				
00/00/07	1859.163.1				
08/23/06	AMEND: 1181.4				
08/21/06	AMEND: 1859.2, 1859.70.1, 1859.71.3,				
08/15/06	1859.78.5				
08/13/00	ADOPT: 20108, 20108.1, 20108.12, 20108.15				
	20108.15, 20108.18, 20108.20,				
	20108.25, 20108.30, 20108.35,				
	20108.36, 20108.37, 20108.38,				
	20108.40, 20108.45, 20108.50,				
	20108.51, 20108.55, 20108.60,				
	20108.65, 20108.70, 20108.75,				

20108.80

08/11/06	AMEND: 1859.2, 1859.40, 1859.51,		AMEND: 1733
1859.70, 1859.93.1, 1859.95, 1859.14		09/26/06	AMEND: 1976.8
	1859.202, 1866	Title 5	
Title 3		01/10/07	AMEND: 55806
01/09/07	AMEND: 3433(b)	11/13/06	AMEND: 18013, 18054
	AMEND: 3591.6(a)	11/08/06	AMEND: 850, 851, 852, 853, 854, 855,
	AMEND: 3591.2(a)		857, 858, 859, 861, 862, 863, 864, 864.5,
	AMEND: 3433(b)		865, 866, 867, 870 REPEAL: 850.5, 880,
	AMEND: 6625		881, 882, 883, 884, 886, 887, 888, 890,
	AMEND: 3406(b)		891, 892, 893, 894, 895, 896, 897, 898,
	AMEND: 3424(b)		899,901
	AMEND: 3423(b)	10/26/06	` '
12/20/06	` /	10/23/06	ADOPT: 11991, 11991.1, 11991.2
12/19/06	ADOPT: 6310, 6312, 6314 AMEND:	10/16/06	ADOPT: 11987, 11987.1, 11987.2,
	6170		11987.3, 11987.4, 11987.5, 11987.6,
12/06/06	AMEND: 3700(c)		11987.7
12/06/06	AMEND: 3591.6	09/29/06	ADOPT: 19833.5, 19833.6 AMEND:
11/30/06	ADOPT: 6128 AMEND: 6130		19815, 19816, 19816.1, 19819, 19824,
11/16/06	AMEND: 3433(b)		19828.1, 19831
11/13/06	AMEND: 3423(b)	09/15/06	REPEAL: 18074.1(b), (c), (d), 18074.3,
11/08/06	AMEND: 3591.2(a)		18074.4, 18074.5, 18074.6
10/27/06	ADOPT: 765 AMEND: 760.4, Article	08/30/06	ADOPT: 15566, 15567, 15568 REPEAL:
	3.5		15569
10/19/06	AMEND: 3591.6(a)	08/15/06	AMEND: 1030.7, 1030.8
10/12/06	ADOPT: 3424	Title 8	
	AMEND: 3433(b)	12/29/06	AMEND: 1598, 1599
10/12/06	· /	12/27/06	AMEND: 3385
10/06/06	· /	12/21/06	AMEND: 5031
10/06/06	AMEND: 3591.13(a)	12/15/06	AMEND: 5006.1
10/05/06	AMEND: 3589	11/14/06	AMEND: 3482, 5161, 5178
10/05/06		11/14/06	AMEND: 6368
10/02/06	. /	11/08/06	AMEND: 17000 Appendix
09/19/06		11/02/06	AMEND: 3650
09/12/06	· /	10/18/06	AMEND: 9768.5, 9768.10, 9788.11,
09/12/06	AMEND: 3406(b)	10, 10, 00	9788.31,9789.33
09/08/06	AMEND: 3423(b)	09/29/06	AMEND: 341, 341.1
09/07/06	· ·	09/25/06	AMEND: 4920
09/05/06	AMEND: 3406(b)	09/21/06	ADOPT: 10001, 10002, 10003
08/29/06	AMEND: 3433(b)	09/19/06	ADOPT: 1532.2, 5206, 8359 AMEND:
08/24/06	AMEND: 3433(b)	07/17/00	5155
08/23/06	AMEND: 3591.12(a)	TT:41 0	3133
08/17/06	AMEND: 3591.19(a)	Title 9	ADOPT: 2100 2200 010 2200 020
08/16/06	AMEND: 3433(b)	12/29/06	ADOPT: 3100 3200.010, 3200.020,
08/15/06	AMEND: 3700(c)		3200.030, 3200.040 3200.050, 3200.060,
08/15/06	AMEND: 3700(c)		3200.070, 3200.080, 3200.090,
08/10/06	AMEND: 3591.6(a)		3200.100, 3200.110, 3200.120, 3200.000
Title 4			3200.130, 3200.080, 3200.090, 3200.150, 3200.160, 3200.170,
12/05/06	AMEND: 1582		3200.180, 3200.190, 3200.210, 3200.210,
11/22/06	AMEND: 1544 & 1658		3200.180, 3200.190, 3200.210, 3200.220, 3200.230, 3200.240,
11/16/06	ADOPT: 2422.1		3200.250, 3200.250, 3200.240, 3200.250, 3200.260, 3200.270,
11/03/06	AMEND: 10152, 10153, 10155, 10159,		3200.280, 3200.300, 3200.310, 3300,
11/03/00	10160, 10161, 10162		3310, 3315, 3320, 3350, 3360, 3400,
10/24/06	AMEND: 1486		3405, 3410, 3415, 3500, 3505, 3510,
13,21,00			2.15, 2.15, 2.16, 2200, 2000, 2010,

11/21/06 09/25/06	3520, 3530, 3530.10, 3530.20, 3530.30, 3530.40, 3540, 3610, 3615, 3620, 3620.05, 3620.10, 3630, 3640, 3650 AMEND: 9100 ADOPT: 3400	10/24/06	2303.4, 2303.5, 2303.6, 2303.7, 2303.8, 2303.9, 2303.10, 2303.11, 2303.12, 2303.13, 2303.14, 2303.15, 2303.16,
Title 10			2303.17, 2303.18, 2303.19, 2303.20,
01/10/07	AMEND: 3528		2303.21, 2303.22, 2303.23, 2303.24,
01/10/07	AMEND: 2698.52(c), 2698.53(b),		2303.25
01/00/07	2698.56(c)	10/16/06	ADOPT: 2194.9, 2194.10, 2194.11,
01/03/07	ADOPT: 2642.4, 2643.8, 2644.24,		2194.12, 2194.13, 2194.14, 2194.15,
0 = 7 0 0 7 0 7	2644.25, 2644.26, 2644.27, 2644.50,	10/10/06	2194.16, 2194.17
	AMEND: 2642.5, 2642.6, 2642.7,	10/10/06	
	2643.6, 2644.2, 2644.3, 2644.4, 2644.5,	10/03/06	AMEND: 2498.5 AMEND: 2248.4, 2249.1, 2249.2,
	2644.6, 2644.7, 2644.8, 2644.10,	10/02/06	2249.6, 2249.7, 2249.8, 2249.9, 2249.10,
	2644.12, 2644.15, 2644.16, 2644.17,		2249.11, 2249.12, 2249.13, 2249.14,
	2644.18, 2644.19, 2644.20, 2644.21,		2249.15, REPEAL: 2248.11, 2248.12,
12/20/06	2644.23		2248.19
12/29/06		09/20/06	AMEND: 2318.6, 2353.1
	2222.14, 2222.15, 2222.16, 2222.17,	09/14/06	AMEND: 3528
	2222.19 REPEAL: 2222.13	08/29/06	AMEND: 2699.6600
12/29/06	•	08/28/06	ADOPT: 803, 810, 810.1, 810.2, 810.3,
12/29/06	ADOPT: 5327, 5357.1, 5358, 5358.1		810.4, 810.5, 810.6, 810.7 AMEND: 800,
	AMEND: 5350, 5352		801, 802, 804, 806, 807
12/29/06	AMEND: 2696.1, 2696.2, 2696.3,	Title 11	
	2696.5, 2696.6, 2696.7, 2696.9, 2696.10	12/21/06	AMEND: 48.6
	REPEAL: 2696.4, 2696.8	12/21/06	ADOPT: 80.3
12/29/06	AMEND: 2651.1, 2661.1, 2661.3,	12/21/06	AMEND: 1070, 1081, 1082
	2662.1, 2662.3, 2662.5	10/13/06 10/13/06	
12/29/06	AMEND: 2632.5(c)	08/16/06	
12/27/06	AMEND: 2498.6		ADOI 1.1004
12/26/06	ADOPT: 2698.80, 2698.81, 2698.82,	Title 13	ADODE: 1200 DEDEAL: 1200 1201
	2698.83, 2698.84, 2698.85, 2698.86,	12/27/06	ADOPT: 1300 REPEAL: 1300, 1301, 1302, 1303, 1304, 1304.1, 1305, 1310,
	2698.87, 2698.88, 2698.89, 2698.89.1		1302, 1303, 1304, 1304.1, 1303, 1310, 1311, 1312, 1313, 1314, 1315, 1320,
	AMEND: 2698.80, 2698.81, 2698.82, 2698.83, 2698.84, 2698.85, 2698.86		1321, 1322, 1323, 1324, 1325, 1330,
12/22/06	ADOPT: 2548.1, 2548.2, 2548.3, 2548.4,		1331, 1332, 1333, 1334, 1335, 1336,
12/22/00	2548.5, 2548.6, 2548.7, 2548.8		1337, 1338, 1339, 1339.1, 1339.2,
12/20/06	ADOPT: 2614, 2614.1, 2614.2, 2614.3,		1339.3, 1339.4, 1339.5, 1339.6, 1340,
	2614.4, 2614.5, 2614.6, 2614.7, 2614.8,		1341, 1342, 1343, 1344, 1350, 1351,
	2614.9, 2614.10, 2614.11, 2614.12,		1352, 1353, 1354, 1355, 1356, 1360,
	2614.13, 2614.14, 2614.15, 2614.16,		1361, 1362, 1363, 1364, 1365, 1366,
	2614.17, 2614.18, 2614.19, 2614.20,		1370, 1371, 1372, 1373, 1374, 1375,
	2614.21, 2614.22, 2614.23, 2614.24,		1400, 1401, 1402, 1403, 1404, 1405, 1406, 1410, 1411, 1412, 1413, 1414,
	2614.25, 2614.26, 2614.27		1410, 1410, 1411, 1412, 1413, 1414, 1415, 1416, 1417, 1418, 1420, 1421,
12/19/06	AMEND: 2690.90, 2690.91, 2690.92,		1422, 1423, 1424, 1425
	2690.93, 2690.94	12/13/06	AMEND: 553.70
12/13/06	ADOPT: 2534.40, 2534.41, 2534.42,	12/06/06	ADOPT: 2022, 2022.1
12/13/00	2534.43, 2534.44, 2534.45, 2534.46	12/01/06	ADOPT: 2479
11/15/06	AMEND: 2697.6, 2697.61	11/13/06	AMEND: 2111, 2112, 2441, 2442,
11/09/06	AMEND: 2498.5		2444.2,2445.1,2445.2,2446
11/09/06	AMEND: 2534.27, 2534.28	11/13/06	AMEND: 2445.2(a)

10/30/06	ADOPT: 118.00	11/07/06			
10/27/06	AMEND: 423.00	11/02/06	AMEND: 183		
10/16/06	AMEND: 1956.8, 2404, 2424, 2425,	10/19/06	AMEND: 632(b)(72)		
10/05/06	2485 AMEND: Section 1	10/11/06	AMEND: 895, 895.1, 1038, 1038(f)		
		10/06/06	AMEND: 670.2		
09/14/06	AMEND: 25.06, 25.07, 25.08, 25.10, 25.14, 25.15, 25.16, 25.17, 25.18, 25.19,	09/20/06	AMEND: 895.1, 898, 914.8, [934.8,		
	25.14, 25.15, 25.16, 25.17, 25.16, 25.19, 25.20, 25.21, 25.22		954.8], 916, [936, 956], 916.2 [936.2,		
09/11/06	ADOPT: 2467.8, 2467.9 AMEND: 2467,		956.2], 916.9, [936.9, 956.9], 916.11,		
07/11/00	2467.1, 2467.2, 2467.3, 2467.4, 2467.5.		[936.11, 956.11], 916.12, [936.12,		
	2467.6, 2467.7, Incorporated Documents		956.12], 923.3, [943.3, 963.3], 923.9,		
	REPEAL: 2467.8, Incorporated Test	00/10/06	[943.9, 963.9]		
	Method 512	09/19/06	AMEND: 502		
09/07/06	AMEND: 1956.1, 1956.8, 2023.1,	09/15/06	AMEND: 851.8, 851.23, 851.51.1, 851.85, 852.2, 851.4, 851.10,		
	2023.4	08/31/06	851.85, 852.3, 851.4, 851.10, 851.10.1 AMEND: 27.80		
08/24/06	AMEND: 28.22	08/11/06			
Title 13, 17		08/11/06	AMEND: 7.50		
12/27/06	ADOPT: 93116.3.1 AMEND: 2452,	Title 15			
	2456, 2461, 93115, 93116.2, 93116.3	12/19/06	ADOPT: 3413.1 AMEND: 3413		
Title 14		12/13/06	AMEND: 3041.2, 3053, 3177, 3331,		
12/28/06	ADOPT: 25231	12/04/00	3375		
12/26/06	AMEND: 1690, 1691, 1692, 1693, 1694,	11/03/06	AMEND: 3375.2, 3377.1		
	1695, 1696, 1697, 1698, 1712, 1714,	11/03/06	AMEND: 3084.1		
	1720, 1721, 1721.2, 1721.3, 1721.3.1,				
	1721.4, 1721.5, 1721.6, 1721.7, 1721.8,	10/06/06	ADOPT: 2252 2 AMEND: 2250 1		
	1721.9, 1722, 1722.1.1, 1722.3, 1722.4,	10/03/06	ADOPT: 3352.2 AMEND: 3350.1, 3352.1, 3354, 3358		
	1722.5, 1722.7, 1723, 1723.5, 1723.7,	08/11/06	ADOPT: 4034.0, 4034.1, 4034.2, 4034.3,		
	1723.8, 1723.9, 1724	00/11/00	4034.4 REPEAL: 4036.0, 4040.0		
12/19/06	AMEND: 105.1, 120.01, 149.1, 150,	Title 16			
	150.02, 150.03, 150.05, 180.3, 180.15,	01/10/07	AMEND: 974		
	231	12/27/06	ADOPT: 1713 AMEND: 1717		
12/05/06	AMEND: 2305, 2310, 2320	12/20/06	AMEND: 1397.61(b)		
12/01/06	AMEND: 163, 164	12/18/06	ADOPT: 980.2, 980.3 AMEND: 980.1		
11/27/06	ADOPT: 4970.49, 4970.50, 4970.51,	12/07/06	ADOPT: 1793.8 AMEND: 1793.7		
	4970.52. 4970.53, 4970.54, 4970.55,	12/05/06	AMEND: 1397.12		
	4970.56, 4970.57, 4970.58, 4970.59,	11/16/06	AMEND: 1397.60, 1397.61, 1397.62		
	4970.60, 4970.61, 4970.62, 4970.63,	11/16/06	AMEND: 28		
	4970.64, 4970.65, 4970.66, 4970.67,	11/16/06	ADOPT: 1399.170.20.1 AMEND:		
	4970.68, 4970.69, 4970.70, 4970.71,		1399.151.1		
11/27/06	4970.72	11/16/06	AMEND: 1351.5, 1352		
11/27/06	ADOPT: 18660.5, 18660.6, 18660.7, 18660.8, 18660.9, 18660.10, 18660.11,	11/15/06	ADOPT: 1034.1 AMEND: 1021, 1028,		
	18660.12, 18660.13, 18660.14,	11/15/00	1034		
	18660.15, 18660.16, 18660.17,	11/15/06	AMEND: 4120, 4121, 4161, 4162		
	18660.18, 18660.19, 18660.20,	11/08/06	AMEND: 4130		
	18660.21, 18660.22, 18660.23,	11/02/06	AMEND: 3394.6		
	18660.24, 18660.25, 18660.30,	10/31/06	AMEND: 100, 102, 109, 111, 117, 136		
	18660.31, 18660.32, 18660.33	10/26/06	AMEND: 345		
11/22/06	AMEND: 939.15,959.15	10/17/06	AMEND: 928		
11/16/06	AMEND: 916.5(e), 936.5(e), 956.5(e),	10/11/06	AMEND: 3303.2, 3340.15, 3340.18,		
	916.9, 936.9, 956.9		3340.32, 3340.42, 3394.5		
11/14/06	AMEND: 5101, 5104	10/03/06	AMEND: 70		

09/28/06	AMEND: 1399.156.4		608.1, 608.2, 608.3, 608.4, 608.5, 608.6,
09/26/06	AMEND: 1579		609, 609.1, 609.2, 609.3, 609.4, 609.5,
09/12/06	AMEND: 384	11/14/06	609.6,609.7,610,612,613,614.2,614.4
09/07/06	ADOPT: 1399.391	11/14/06	ADOPT: 902.9, 902.19, 906.1, 906.2,
08/31/06	ADOPT: 1727.1		906.3 AMEND: 901, 902, 902.4, 902.11,
08/25/06 08/17/06	AMEND: 1922, 1936, 1948 ADOPT: 601.5, 642.5 AMEND: 600.1,		902.12, 902.15, 902.18, 904, 904.1, 904.2, 904.7, 905, 905.2, 906 REPEAL:
08/17/00	601.3, 602, 602.1, 603, 605, 606, 607.4,		904.2, 904.7, 903, 903.2, 900 REFEAL. 904.3, 904.4, 904.5, 904.6
	608.3, 627	F71.7 . 4.0	904.3, 904.4, 904.3, 904.0
08/10/06	REPEAL: 829	Title 20	AMENID 1 161
Title 17	REI El III. 02)	12/26/06	AMEND: 1.161
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